



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MERU
Criminal Appeal 108, 107 & 109 of 2010

JULIANA KINANU MURITHI 1ST APPELLANT
JANE NKIROTE 2ND APPELLANT
MARY NTUI 3RD APPELLANT

VERSUS

REPUBLIC RESPONDENT

CONSOLIDATED WITH

CRIMINAL APPEAL CASE NO. 107 OF 2010
MARY NTUI APPELLANT
CONSOLIDATED WITH
CRIMINAL APPEAL CASE NO. 109 OF 2010
JANE NKIROTE APPELLANT

RULING

The appellants were all convicted of causing grievous harm contrary to section 234 of the penal Code. On being convicted, they were all sentenced to 4 years imprisonment. They have all filed an application for bail pending appeal dated 8th June 2010. It was argued most vigorously by counsel for the appellants that the appellant's appeal has high chances of success. It was also submitted that the appellants were on bond as they attended the lower court matter and that they did not fail to attend court when required. The learned counsel for the appellants went into great details in arguing the application some of which touched on the very appeal which does not fall for consideration at this point. For that reason, I will not consider in details the arguments raised by that counsel. Suffice to say, that the learned state counsel conceded to the application stating that the trial magistrate overlooked a very important aspect of the trial. He pointed out that the appellants were not called to plead to their offence. The principles for granting bail pending appeal were set out in the case **Dominic Karanja Vs. Republic** [1986] KLR. The Court of Appeal stated thus:-

“The most important issue was that if the appeal had such overwhelming chances of success, there was no justification for depriving the applicant of his liberty and the minor relevant considerations would be whether there were exceptional or unusual circumstances.”

I have considered the submissions made before me and I have also considered the proceedings and the judgment of the lower court. I find that the application for bail pending appeal is merited. I therefore order that each appellant be released from custody pending appeal on their own personal bond of Kshs. 40,000/= and each appellant to provide one surety of similar amount. I order that this matter be mentioned before court on 29th November 2010.

Dated and delivered at Meru this 18th day of June 2010.

MARY KASANGO
JUDGE