



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Criminal Appeal 369 of 2009

PETER WARUNGE KAGUNDA.....APPLICANT

VERSUS

REPUBLIC OF KENYA.....RESPONDENT

RULING

The application has been brought through Chamber Summons under the High Court Vacation Practice and Procedure Rules and Sections 3(3), 347, 356 and 357 of the Criminal Procedure Code, Cap. 75 Laws of Kenya and all other enabling provisions of the law. The said application seeks the following prayers:

- (a) THAT pending the hearing and determination of this Application, the sentence in Traffic Case No. 6603 of 2007 – Thika be suspended and the Appellant be released on bond.
- (b) THAT this Honourable Court do Order the Appellant herein be admitted to bail pending the hearing and determination of this Appeal.
- (c) THAT the Officer Commanding Thika G.K. Prisons be served with the Orders herein for Compliance.

During the hearing of the application, Mr. Momanyi, Counsel for the Appellant informed the court that his client is a student at Kabarak University. Apart from the above, he also informed the court that the Applicant had earlier been charged for a criminal offence and that he had been fined Kshs.80,000/- and in default, one year's imprisonment. The appellant's counsel is of the opinion that the appeal has high chances of success. Though Mr. Okeyo, the State Counsel stated that the appellant had not filed the petition of appeal, the record shows otherwise. Besides the above, the learned State Counsel expressed fear that the Appellant may abscond due to the fact that he had been charged for a serious offence.

After carefully considering the application together with the documents, the court finds that the accused is a university student and hence unlikely to abscond. Secondly, the Applicant has an arguable appeal and hence he should be granted an opportunity to proceed with the same. In view of the above, I hereby grant the following prayers: -

- (a) THAT pending the hearing and determination of this application the sentence in Traffic Case No. 6603 of 2007 – Thika be suspended and the Appellant be released on bond.
- (b) THAT the Appellant herein be admitted to bail pending the hearing and determination of this Appeal. That the Applicant be released on a bond of Kshs.200,000 with a surety to be approved by the Chief Magistrate, Central Registry, High Court.

(c) That the Officer Commanding Thika G.K. Prisons be served with the orders herein for compliance.

MUGA APONDI

JUDGE

Ruling read signed and delivered in open court in the presence of:

Mr. Nyakundi for State Counsel – Present

Mr. Momanyi - Counsel for Applicant - Absent

MUGA APONDI

JUDGE

25TH SEPTEMBER 2009