

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

CRIMINAL APPEAL CASE NO. 56 OF 2003

**JAMES NJERU NGURU.....APPELLANT
VERSUS
REPUBLIC.....RESPONDENT**

JUDGMENT

The Learned State Counsel Mr. Omwega concedes the appeal but asks for a retrial.

Mr. Githinji for the Appellant points out that a retrial would be unfair since the Appellant has been in jail from 20th May, 2003.

I do agree with what Mr. Githinji is saying.

Accordingly, the Appellant's appeal herein is allowed. His conviction quashed and the sentence imposed upon him set aside.

As the Appellant has been in jail since 20th May 2003, I do not order a retrial and it is therefore hereby ordered that the Appellant be set at liberty forthwith unless lawfully detained in some other cause.

Dated this 4th Day March, 2004.

**J.M. KHAMONI
JUDGE**