



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA  
AT NAIROBI**

**CRIMINAL APPLICATION NO.290 OF 2002**

**(In the matter of an intended appeal)  
Between**

**GICHEMA GACHAU ..... APPLICANT**

**And**

**REPUBLIC ..... RESPONDENT**

**(intended appeal from conviction(s) and sentence(s) of the**

**CHIEF MAGISTRATE'S COURT AT NAIROBI**

**CRIMINAL CASE NO.1492 OF 2002**

**Between**

**REPUBLIC ..... PROSECUTOR**

**VERSUS**

**GICHEMA GACHAU ..... ACCUSED**

**RULING**

I have considered the application carefully. This is an application to have the bond of the accused applicant herein one Gichema Gachau reinstated. According to Mr. Wandugi for the applicant/accused the bond was cancelled following the accused's failure to attend court on 7/2/2002 by Mrs Gichohi a Resident Magistrate. The failure to attend court by the applicant was not deliberate but was occasioned by factors beyond the applicant's control. Mr. Wandugi annexed an affidavit in support of this.

He has also annexed some medical evidence to show that the accused had been assaulted on the date he was supposed to attend court. Miss Okumu for the Republic did not oppose the application. She however urged the court to impose more stiffer bail conditions on the accused person. I have perused the lower courts record carefully. The accused was ordered to forfeit his bond of Ksh.200,000/- or to serve 6 months imprisonment in default. He was also to remain in custody until his case is finalized. Taking everything into account including the fact that the state is not objecting the present application it is my considered view that this application should succeed. I do not find any need to impose any additional bail terms towards the release of the accused person.

I accordingly order that the accused person/applicant be released on his earlier bail terms accordingly. He will also be released from jail where he is serving the 6 months jail term in default of paying the Kshs.200,000/=. The orders of the lower court to this effect are accordingly quashed.

The accused will be released on his earlier bail terms and his bond extended accordingly. The accused will present himself to the trial court on the next hearing or mention date.

A fresh security of Ksh.200,000/= will be provided.

Order accordingly.

**R.M. MUTITU**

**JUDGE**

**27/3/2002**