



**Matingae v Republic (Criminal Appeal E006 of 2023)
[2024] KEHC 5865 (KLR) (23 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5865 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL APPEAL E006 OF 2023**

DR KAVEDZA, J

MAY 23, 2024

BETWEEN

NYAKUNDI MATINGAE APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged and convicted for the offence of defilement contrary to section 8(1) as read with 8(3) of the *Sexual Offences Act*, No. 3 of 2006. He was sentenced to serve 20 years imprisonment. He filed an appeal challenging his conviction and sentence. Judgement on his appeal is scheduled to be delivered on July 2, 2024.
2. He has now filed the present notice of motion dated May 20, 2024, seeking to be released on bail pending appeal. The application is supported by an affidavit sworn by the applicant.
3. I have considered the application, the affidavit in support and the applicable law. From the record, the petition of appeal was heard and is awaiting determination on July 2, 2024. The present application is for bail pending appeal.
4. It is common ground that the applicant’s appeal has already been heard. The issue of whether to grant bail pending appeal or not is spent. I need not belabour on this point as the same is overtaken by events. It will not be of any consequence to make a determination on the same. This court cannot grant orders in vain. The orders sought are calculated at engaging the court in a speculative and academic exercise. It will not be of any consequence to make a determination on the same.
5. It is for this reason that the application dated May 20, 2024 is dismissed.
Order accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 23RD DAY OF MAY 2024



D. KAVEDZA

JUDGE

