

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

MISC. CRIMINAL APP. NO. 540 OF 2018

DAVID NGUGI NGANGA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. It is clear that for three years, the Appellant had been on the run. Although he may have reconciled with the complainant, he knew he was required to take plea and so his failure to go to court was inexcusable.

2. He is facing a minor offence of malicious damage to property; the property being some chairs and glasses. The court ought to have considered that he has been in remand for nine months and that other than a cash bail, a surety bond is sufficient to secure his attendance. This would fetter the fact of his being a flight risk.

3. In the circumstances, I set aside the order of the learned trial magistrate Hon. Mutuku, SRM issued on 21/1/2018 denying bail to the applicant. I substitute it with an order that the applicant is admitted to a bond of Kshs. 50,000/= with one surety of a similar amount. The surety shall be assessed by the trial court.

DATED and DELIVERED this 13th day of **November, 2018**

G.W. NGENYE-MACHARIA

JUDGE

In the presence of:

1. Njau for the Applicant
2. M/s for the Respondent.