

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI
CRIMINAL APPEAL NO 118 OF 2013

ANN WAIHUNI MATHENGE.....APPELLANTS

Versus

REPUBLIC.....RESPONDENT

(Appeal arising from the judgment of Hon V. Nyakundi

Resident Magistrate in Nyeri Cr. Case No. 404 of 2010)

RULING

1. The application before court is a notice of motion dated 24th October 2013 in which the applicant seeks to be released on bond pending appeal the same is supported by the affidavit of the applicant in which she deposed that she is likely to serve the substantial part or whole of the sentence by the time the appeal is heard.
2. I have noted that the applicant was sentenced to 18 months in prison of which she has now served almost five months and chances are that this appeal might not be heard within the next one year as the proceedings are yet to be typed. This to my mind is a special circumstance which this court ought to take into consideration in determining whether or not to grant bond pending appeal.
3. On the issue as to whether the appeal has overwhelming chances of success I am of the view that this appeal is arguable on the issue as to whether it should have been a normal case of civil case by guarantors against the appeal
4. I would therefore allow the application herein and order that the applicant be released on bond of Ksh. 150,000/- or in the alternative cash bail of Ksh. 100,000 pending the hearing and determination of the appeal herein.

Dated signed and delivered at Nyeri this 13th day of February 2014.

J. WAKIAGA

JUDGE

Court: Ruling delivered in open court in the presence of Mr. Njue for the State and the appellant in person in the absence of her advocate.

J. WAKIAGA

JUDGE