



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

**APPELLATE SIDE**

**CRIMINAL APPLICATION NO. 177 OF 1998**

**JOSEPH KAROBIA KIMANI.....APPLICANT**

**VERSUS**

**REPUBLIC OF KENYA.....RESPONDENT**

**RULING**

This application by way of Chamber Summons brought under section 123 of the Criminal Procedure Code seeks order that the applicants case which was cancelled by the trial magistrate in KIB/CR. C. NO. 1443 of 1992 be reinstated. Supported by prior affidavit of the applicant.

I have considered the application as well as the affidavit in support and the submissions by counsel for the applicant and the learned state counsel and it can't be said that this application lacks in merit which the applicant failed to appear in court during the mention he was in lawful custody and this was enough reason for his absence and therefore the trial magistrate ought not to have cancelled his bail.

I allow the application. The applicants bail is reinstated on similar terms as granted earlier. Orders accordingly.

**Dated and delivered at Nairobi this 3rd day of June, 1998**

**J.L.A. OSIEMO**

**JUDGE**