



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Rochoni v Republic (Criminal Application E091 of 2025)
[2026] KECA 219 (KLR) (12 February 2026) (Ruling)**

Neutral citation: [2026] KECA 219 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CRIMINAL APPLICATION E091 OF 2025
JM MATIVO, JA
FEBRUARY 12, 2026**

BETWEEN

JOHN GITHINJI ROCHONI APPELLANT

AND

REPUBLIC RESPONDENT

(Being an application for leave to appeal out of time against the conviction and sentence from the judgment of the High Court of Kenya at Nakuru (H. Ong'udi, J.) dated 6th August 2025 in CRA No. E019 of 2024)

RULING

1. The application before the Court is dated 18th November, 2025.
The main prayer is for extension of time to appeal to the Court of Appeal against the judgment issued in HCCRA No. E019 of 2024.
2. The applicant, John Githinji Rochoni was arraigned and tried before the Chief Magistrate Court in Criminal Case No. E044 of 2021 at Naivasha for the offence of defilement contrary to section 8 (1) as read together with section 8 (3) of the *Sexual Offences Act*. After a full trial, he was convicted as charged and sentenced to 30 years imprisonment. The applicant's appeal to the High Court on conviction was dismissed, and his sentence was reduced to 20 years. The applicant failed to lodge his notice of appeal within the statutory-stipulated time of fourteen (14) days.
3. The applicant in his supporting affidavit sworn on 18th November 2025 contends that the delay to file his notice of appeal was occasioned by the delay in receiving a copy of the Judgment of the High Court.
4. In response to the application vide written submissions dated 17th November 2025, Mr. Omutelema Senior Assistant Director of Public Prosecution has amiably conceded to the leave application pointing to the delay of 2 months in applying for the extension of time which is not inordinate.



5. Rule 4 of the Court of Appeal Rules gives the Court unfettered discretion to “... extend the time limited by these Rules, or by any decision of the Court or of a superior Court, for the doing of any act authorized or required by these Rules, whether before or after the doing of the act ... on such terms as it thinks just.” I shall adopt the findings of the Supreme Court in *Andrew Kiplagat Chemaringo vs. Paul Kipkorir Kibet* [2018] eKLR, the Court ruled that;

“the law does not set out any minimum or maximum period of delay. All it states is that any delay should be satisfactorily explained. A plausible and satisfactory explanation for delay is the key that unlocks the court’s flow of discretionary favour. There has to be valid and clear reasons, upon which discretion can be favourably exercisable.”

6. Having considered the explanation by the applicant, I note that there has been a delay of almost two months in bringing the instant application. I find that the delay is not inordinate. This Court is also satisfied by the reasons advanced by the applicant for his failure to lodge the appeal in time. In the circumstances, I’m inclined to exercise my discretion in the applicant’s favour. Accordingly, the application dated 18th November 2025 is hereby allowed. The applicant shall file his notice of appeal within the next 14 days, and file his appeal within 60 days from the date of this ruling.

Orders accordingly.

DATED AND DELIVERED AT NAKURU THIS 12TH DAY OF FEBRUARY, 2026.

J. MATIVO

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed.

DEPUTY REGISTRAR

