



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kabiringoi v Republic (Criminal Appeal E080 of 2025)  
[2026] KEHC 2438 (KLR) (23 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2438 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
CRIMINAL APPEAL E080 OF 2025  
HM NYAGA, J  
FEBRUARY 23, 2026**

**BETWEEN**

**REGINA KABUYA KABIRINGOI ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The appellant /applicant has moved the court by an application dated 17<sup>th</sup> November 2025 in which she seeks the following orders:
  - a. Spent
  - b. The application herein be admitted to bail/bond pending the hearing and determination of her appeal.
  - c. That this honourable court do make any other order it deems fit in the circumstances.
2. The gist of the application is that she was charged before the court at Tigania with the offence of sexual assault and assault causing actual bodily harm. That after a full trial, she was convicted and sentenced to ten (10) years and a fine of Kshs.100,000/= in default one and a half (1 ½) years imprisonment respectively. That aggrieved by the conviction and sentence, she has preferred the appeal which has high chances of success. That the appellant/applicant is a mother with a fixed abode and is thus not a flight risk.
3. The State opposed the application through the grounds of opposition dated 17<sup>th</sup> February 2026.
4. In a nutshell, the State is of the firm opinion that the appellant was properly convicted and that the appeal has little chance of success. That there are no exceptional circumstances to warrant a grant of the orders. That the appeal can be heard expeditiously.



5. In her supplementary affidavit sworn on 12<sup>th</sup> February 2026, the appellant deponed that she is a single mother as evidenced by a letter from the schools where her children attend. That one child has been diagnosed with cerebral palsy and is totally dependent on her for medical check-up. That her continued incarceration means that the children will continue to suffer. She avers that she is ready to abide by any orders set by the court.
6. Advocate for the applicant filed submissions. It is submitted that from the 16 grounds set out in the petition of appeal, it is clear that the appeal has overwhelming chances of success. That there are exceptional circumstances shown by virtue of her parental responsibility. That the applicant is not a flight risk.
7. Counsel cited the following authorities to support his submissions:
  - a. Aroko v Republic (1988) KLR 270
  - b. Republic v Muneer Haji (2020) e KLR
  - c. Dominic Karanja v Republic (1986) KLR 612

### **Analysis and determination**

8. Bond or bail pending Appeal is provided for under Section 357 of the Criminal Procedure Code (CPC). It provides;
  - “357. Admission to bail or suspension of sentence pending appeal
    - (1) After the entering of an appeal by a person entitled to appeal, the High Court, or the subordinate court which convicted or sentenced that person, may order that he be released on bail with or without sureties, or, if that person is not released on bail, shall at his request order that the execution of the sentence or order appealed against shall be suspended pending the hearing of his appeal: Provided that, where an application for bail is made to the subordinate court and is refused by that court, no further application for bail shall lie to the High Court, but a person so refused bail by a subordinate court may appeal against refusal to the High Court and, notwithstanding anything to the contrary in sections 352 and 359, the appeal shall not be summarily rejected and shall be heard, in accordance with such procedure as may be prescribed, before one judge of the High Court sitting in chambers.
    - (2) If the appeal is ultimately dismissed and the original sentence confirmed, or some other sentence of imprisonment substituted therefor, the time during which the appellant has been released on bail or during which the sentence has been suspended shall be excluded in computing the term of imprisonment to which he is finally sentenced.
    - (3) The Chief Justice may make rules of court to regulate the procedure in cases under this section.”
9. The principles for consideration for the grant of bond/bail pending appeal were set out in *Ademba v Republic* 1983 eKLR where the Court of Appeal held that;
  - “.....bail pending appeal may only be granted if there are exceptional or unusual circumstances. The likelihood of success in the Appeal is a factor taken into consideration



in granting bail pending appeal is a factor taken into consideration in granting bail pending appeal.”

10. Also, in *Dominic Karanja v Republic* (1986) eKLR, it was held that;
  - “(a) The most important issue was that if the appeal had such overwhelming chances of success, there is no justification for depriving the applicant of his liberty and the minor relevant considerations would be whether there were exceptional or unusual circumstances.
  - (b) The previous good character of the applicant and the hardships if any facing his family were not an exceptional circumstance where there existed medical facilities for prisoners;
  - (c) A solemn assertion by an applicant that he will not abscond if released, even if it is supported by sureties, is not sufficient ground for releasing a convicted person on bail pending appeal.”
10. Lastly, in the case of *Jivraj Shah v Republic* [1986] eKLR the court also reiterated the principles to be applied in determination whether to grant or deny bail pending Appeal. It was held that;
  - a. The existence of exceptional or unusual circumstances upon which the court can fairly conclude that it just to grant bail.
  - b. If it appears prima facie from the totality of the circumstances that the appeal is likely to be successful an account of some substantial point of law to be urged.
  - c. The sentence or a substantial part of it will have been served by the time the appeal is heard.
11. The common thread from the above authorities is that there have to be exceptional circumstances exhibited and also factors like:
  - a. High chances of the appeal succeeding,
  - b. The length of the sentence imposed,
  - c. The time taken to hear and determine the appeal.
12. Looking at the grounds adduced, I do not see any exceptional circumstances. At this stage, the court is not required to examine the judgment or proceeding’s, unless there are issues that stand out that ought to be considered. I see no such issues.
13. The appellant is serving a 10-year sentence. It is not short by any standards. There are no challenges in hearing appeals so it is not likely that she will have served a substantive portion of the sentence.
14. The fact that the appellant is a single mother on itself, is not an exceptional issue given the nature of the case.
15. In conclusion, I decline to grant the orders sought.
16. That said, in order to expedite the appeal, the following directions shall issue:
  - a. The appeal is admitted.
  - b. The appellant to file and serve the record of appeal within the next 30 days.
  - c. Directions on the disposal of the appeal will be given after compliance with order (b) above.



d. The lower court record to be forwarded to this court forthwith.

**DATED, SIGNED & DELIVERED AT MERU THIS 23<sup>RD</sup> DAY OF FEBRUARY, 2026.**

**H. M. NYAGA**

**JUDGE**

