



REPUBLIC OF KENYA



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

**Muriungi v Republic (Criminal Appeal E011 of 2025)
[2026] KEHC 2538 (KLR) (Crim) (26 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2538 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ISIOLO
CRIMINAL
CRIMINAL APPEAL E011 OF 2025
SC CHIRCHIR, J
FEBRUARY 26, 2026**

BETWEEN

ELIJAH MURIUNGI APPELLANT

AND

REPUBLIC RESPONDENT

RULING

1. The Appellant has filed the Notice of Motion dated 2nd July 2025 seeking for admission to bail pending Appeal.
2. The Applicant states that he was convicted and sentenced to four (4) years by the Chief Magistrate's Court in Isiolo in Criminal Case No. E022 of 2022; that he was dissatisfied with the outcome and has since filed an appeal. He further states that the Appeal would otherwise be rendered nugatory; and that the said Appeal has high chances of success.
3. The Application is opposed by the Respondent, on the basis of a preliminary objection and grounds of opposition dated 7th October 025.
4. The Respondent's states that the Appeal was filed out of time and yet no leave for extension of time was sought and granted; that the Application has been brought under the wrong provisions of law; and the Advocate has sworn an Affidavit on behalf of the Applicant, on contested issues.
5. The respondent further states that the innocence of the Applicant has already been compromised, and there are no peculiar or exceptional circumstances to warrant the granting of orders sought.
6. It is further stated that there is no probability of the Appellant serving the sentence of 4 years before his Appeal is heard, and that the right to bail under Section 357 (1) of Criminal Procedure Code is discretionary and not absolute.



7. The Respondent further expresses the apprehension that due to the long sentence the Appellant may abscond.
Determination
8. The application before court is for bail pending appeal. The Respondent has raised three preliminary issues and it is necessary to address the said issues first.
9. The respondent has pointed out that the Appeal was filed out of time. The Appeal was filed on 3rd July 2025 , while the trial court’s judgment was delivered on 29th May 2025. There is no evidence that extension of time was ever sought and granted. The Appeal is therefore improperly on record. It raises the question of whether an improperly filed document can be a basis of an Application for bail pending Appeal. My answer to that is in the negative
10. Further the Application is curiously brought “under order 50 of the” civil procedure Rules”, yet this is a criminal matter. It is evident that whoever did the drafting cared less about what he or she was drafting. The Applicant is represented, and therefore can be no excuse for such drafting or complete disregard for procedure.
11. Finally, an Advocate has sworn an affidavit on a contested issue. Again, this is another procedural anomaly that testify to the casual approach to preparation of pleadings
12. In view of the above procedural defects, and particularly on the fact that there is no valid memorandum of Appeal on record, the Application is defective. I do not consider it necessary to go into the merits of the Application.
13. The Application is hereby struck off.

DATED, SIGNED AND DELIVERED AT ISIOLO, THIS 26TH DAY OF FEBRUARY 2026.

S. CHIRCHIR

JUDGE.

In the presence of :

Ismail Abdow.

Elijah Murriungi – The Applicant

Mr. Majale – for the Respondent.

