



REPUBLIC OF KENYA



KENYA LAW
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**Karithi v Republic (Criminal Appeal E017 of 2025)
[2026] KEHC 4807 (KLR) (15 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 4807 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL APPEAL E017 OF 2025
SM GITHINJI, J
APRIL 15, 2026**

BETWEEN

JOSEPH KARITHI APPELLANT

AND

REPUBLIC RESPONDENT

RULING

1. Joseph Karithi, the Appellant/Applicant herein was charged together with three others in the Lower Court with three Counts as listed below:-
 1. Abduction with intent to confine contrary to Section 259 of the Penal Code.
 2. Assault causing actual bodily harm, contrary to Section 251 of the Penal Code.
 3. Demanding by menace contrary to Section 302 of the Penal Code.
2. Upon full hearing, they were convicted on the three counts and sentenced to serve each, on the first count 40 months imprisonment; Second Count 3 months imprisonment; and third Count 3 months imprisonment; sentences to run concurrently.
3. The Applicant preferred an appeal and filed his Petition of Appeal dated 23rd April, 2025. He as well, on the said date filed a Notice of Motion which is the subject of this Ruling, praying for bond pending appeal. The said application is premised on the grounds that:-
 1. He was sentenced to serve 40 months Imprisonment.
 2. He has already preferred an Appeal.
 3. The lodged appeal raises weighty and arguable grounds that have a likelihood of success.



4. There exists exceptional circumstances that warrant the admission of the Appellant to bail and/or bond pending the determination of the appeal.
5. A substantial portion of the sentence may have been served by the time the Appeal is determined.
6. During the course of the trial, he was out on bond and he never absconded.
4. The application was canvassed by way of written submissions. The Respondent relied on their Replying Affidavit while the Applicant filed their submissions dated 16th June 2025.
5. The sole issue for determination is whether the Applicant has met the threshold for grant of bail pending appeal.
6. The principles governing bail pending appeal are now well settled in law. In *Somo –vs- Republic* (1972) EA 476, the Court held that the most important consideration is whether the appeal has overwhelming chances of success.
7. Similarly, in *Jivraj Shah –vs- Republic* (1986) KLR 605, it was held that bail pending appeal may be granted where there exist substantial points of law which may result in the appeal being successful.
8. Further, in *Dominic Karanja –vs- Republic* (1986) KLR 612, the Court emphasized that an Application for bond pending appeal must demonstrate the existence of exceptional or unusual circumstances.

Analysis:-

Whether the Appeal has overwhelming chances of success.

9. At this stage, the Court is not required to delve into the merits of the Appeal in detail but only to make a prima facie assessment. Having perused the Petition of Appeal and the Judgment of the trial Court, I am of the view that the grounds on this point do not disclose an appeal with overwhelming chances of success. They are arguable grounds, but not exceptional.

Whether Exceptional or Unusual circumstances exist.

10. The Applicant has not submitted any exceptional ground that would command his release on bond pending appeal. These grounds are like ill health, family hardship, loss of employment or chances in career development, study etc.

Whether the sentence may be served before Appeal is heard.

11. The Applicant was sentenced to serve 40 months imprisonment. The Record of Appeal is ready and the matter only requires admission to hearing and directions on hearing of the Appeal. There is therefore no likelihood of the Applicant having served a substantial portion of the sentence before the Appeal is heard and determined.

Risk of absconding.

12. The Applicant is now a convict rather than a suspect as he was in the Lower Court. He was convicted on all the three counts. The fact that he attended trial in Lower Court while out on bond, is not a guarantee that he'll not abscond if released on bond. Circumstances are now different and raises temptation to abscond.



13. Having weighed all the foregoing factors, I do find that the Applicant has failed to demonstrate:
1. That the appeal has overwhelming chances of success; or
 2. That there exist exceptional or Unusual circumstances to warrant the grant of bail pending appeal.
14. The application for bail pending appeal is therefore dismissed for want of merit.

DATED AND DELIVERED AT MERU THIS 15TH DAY OF APRIL, 2026.

S.M. GITHINJI –JUDGE

15/4/2026

In the presence of:-

Mr. Mwithi for the Applicant (absent).

Applicant/Appellant – Absent.

