



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kariru v Republic (Criminal Application E011 of 2025)  
[2025] KECA 444 (KLR) (7 March 2025) (Ruling)**

Neutral citation: [2025] KECA 444 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAKURU  
CRIMINAL APPLICATION E011 OF 2025  
PM GACHOKA, JA  
MARCH 7, 2025**

**BETWEEN**

**ANTHONY MUNGA KARIRU ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(An application for leave to appeal out of time against the conviction and sentence of the High Court of Kenya at Naivasha (Nzioka, J.) delivered on 13th May 2024 in)*

**RULING**

1. In his Notice of Motion dated 31<sup>st</sup> January 2025, the applicant seeks the leave of this Court to appeal out of time against the conviction and sentence of the High Court sitting at Naivasha in HCCRA No. E004 of 2022. In Engineer CMC Criminal (SO) No. E003 of 2021, the applicant was charged with the offence of defilement contrary to section 8 (1) as read with section 8 (4) of the [Sexual Offences Act](#). The matter went for full trial where the applicant was convicted and sentenced to fourteen years' imprisonment. On appeal before the Naivasha High Court, Nzioka, J. dismissed the applicant's appeal on conviction but enhanced his sentence to fifteen years' imprisonment.
2. It is those findings that prompted the applicant to file the present application. It is supported by his affidavit sworn on 31<sup>st</sup> January 2025. He has urged this Court to consider that he was not furnished with the judgment timeously to enable him file his appeal on time.
3. The application was not opposed. In its written submissions dated 19<sup>th</sup> February 2025, the state, through Senior Assistant Director of Public Prosecutions Mr. Omutelema submitted that while there was a delay in filing the application, the same ought to be allowed since the sentence meted out was lengthy.



- 4. Rule 4 of this Court’s Rules provides that the Court may extend the time limited by these Rules for the doing of any act authorized or required by the Rules, whether before or after the doing of the act, and a reference in these Rules to any such time shall be construed as a reference to that time as extended.
- 5. I have considered the application, the supporting affidavit, the annexures thereto, the respondent’s submissions and the law. I am satisfied to hold that the application has met the threshold for the exercise of discretion by this Court. Accordingly, I direct the applicant to file his notice of appeal within 14 days from the date of this order. Thereafter, the record of appeal shall be filed and served within 45 days.

**DATED AND DELIVERED AT NAKURU THIS 7<sup>TH</sup> DAY OF MARCH 2025.**

**M. GACHOKA C.Arb, FCIArb.**

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**JUDGE OF APPEAL**

I certify that this is a True copy of the original

Signed

**DEPUTY REGISTRAR**

