



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI**

Criminal Appeal 6 of 2006

RUEBEN GITONGA NDERITU.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

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R U L I N G

The Applicant Reuben Gitonga Nderitu seeks to be admitted to bail pending the hearing and determination of his appeal which He has lodged against his conviction and sentence for the offence of Defilement of a girl Contrary to Section 145 (1) of the Penal Code. His main grounds are that his appeal is meritorious and likelihood of success. The applicant further contends that the offence of which He was convicted is a bailable offence and that having been on bail during the trial He should also be admitted to bail pending appeal.

I have considered the record of the Lower Court, and the grounds of appeal filed by the applicant. While it may be true that the appeal may be arguable, one cannot say with certainty that the appeal has high chances of success. The Applicant has not shown any exceptional grounds as to why He should be admitted to bail. During the trial in the Lower Court the Applicant was entitled to bail as that was his constitutional right which He could only be denied on exceptional grounds. The Applicant's position has now changed. He is a convict and can only be released on bail on exceptional grounds. I find that there is no good reason to grant the Applicant bail pending appeal. His application is accordingly dismissed.

Dated, signed and delivered this 19th day of May 2006.

H. M. OKWENGU

JUDGE



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