



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**CRIMINAL APPEAL NO. E044 OF 2021**

**KM .....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**R U L I N G**

1. B application dated 25/5/2021 the Appellant a minor committed to [Particulars Withheld] Institution for 3 years for offence of escape in Tononoka Children's Court. CR. Case No. EXXX of 2021 sought to be released on bond pending appeal as her appeal has high chances of success.
2. It was argued that it is in best interest of the appellant child not to be incarcerated for a long time. Mr. Egunza Advocate for the appellant urged the court to have appellant released so that she does not lose opportunity to get an education.
3. This court called for social inquiry from the County Children's Officer and the same was filed on 29<sup>th</sup> March 2022. The said report indicates that the biological father of the Appellant/Applicant was 16 years old when she was conceived and her 15 years old mother gave her out to her guardians MM and MSA who are related to her M grandfather.
4. That her father was a drug addict and has been absent in the entire time of the subjects development period and cannot be traced. It is not explained how MS the deponent of supporting affidavit to application dated 25/05/2021 is related to the applicant/Appellant.
5. From the Social inquiry Report, it is obvious that the appellant has not yet completed her term and she is not ripe for release particularly considering that she can now take her studies within a controlled environment.
6. This court orders that the application for release may be revisited after the applicant has sat for her KCPE exams at the end of the year given that she has so far gone to 5 different schools from what has been said to be as a result of misconduct and/or truancy on her part.
7. The Application dated 25/05/2021 is therefore kept in abeyance.

**DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 5TH DAY OF APRIL 2022**

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

**IN THE PRESENCE OF:-**

**OGWEL- COURT ASSISTANT**

**SUBJECT - PRESENT IN PERSON**

**ADVOCATE FOR THE SUBJECT – MR. EGUNZA**

**MR. NGIRI FOR STATE**

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**

COURT – MENTION ON 6/12/2022

**HON. LADY JUSTICE A. ONG'INJO**

**JUDGE**