



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CRIMINAL APPEAL NO. E025 OF 2020

MUCEMI MWANGI.....APPLICANT/APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

RULING ON BAIL/BOND PENDING APPEAL

1. Mr. Mucemi Mwangi was convicted vide Chief Magistrate's Kibera Criminal Case No. 2903 of 2009 of various offences ranging from forgery, making a document without authority, attempted stealing and handling stolen goods. He was sentenced on the various counts. In total he is to serve three (3) years imprisonment since the sentences are to run concurrently.
2. He has filed this appeal and is now seeking an order for bail/bond pending appeal. He cites ill health as the main challenge he is facing as he fears contracting COVID 19 by virtue of his stay in prison custody. He is also not sure of when his appeal will be heard since priority is being given to matters filed before his. The record of appeal is yet to be prepared as the proceedings have not been typed.
3. He also states that he was on bond in the lower court and he faithfully attended court for 11 years. In his sworn affidavit he avers that he is hypertensive and asthmatic.
4. Mr. Kanyoko for the Applicant reiterated the Applicant's averments and grounds in support of the application. He pointed out that the offences the Applicant was convicted of are bailable and that the Applicant is aged 60 years.
5. Mr. Mutuma for the Respondent did not oppose the application. He however asked the court to impose strict bond terms.
6. The Applicant was convicted on 12th October 2020. It's clear from the record that proceedings are yet to be typed.
7. The main issue of concern is the Applicant's health. A document from Nairobi West Prison dispensary (NMI) shows that he is asthmatic. With the COVID 19 challenges and considering his age of 60 years the Applicant's health issue ought to be taken seriously.
8. It's also clear that the appeal may not be heard very soon. The original case begun in July 2009 and the appellant was released on bond. He did not abscond.
9. Following the Applicant's health challenges and the uncertainty on when the appeal will most likely be heard, I find the application for bond/bail pending appeal to be merited.
10. Pending the hearing of the appeal the Applicant may be released on a bond of Kshs 250,000/= with a surety in similar sum. In the alternative he may be released on a cash bail of Kshs 80,000/= to appear.
11. Assessment of the surety to be done by the Deputy Registrar.
12. If released on bail/bond the Applicant will be reporting for mention before the Deputy Registrar every two months.
13. Upon the request of the Counsel for the Applicant the cash bail deposited in the lower court which has not been refunded to be utilized as the cash bail herein.

Orders accordingly.

Delivered, signed and dated this 8th day of January, 2021 in open court at Nairobi.

H. I. ONG'UDI

JUDGE