

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

CRIMINAL APPEAL NO. 21 OF 2017

JAMES MURIMI.....APPELLANT

VERSUS

DIRECTOR OF PUBLIC PROSECUTION.....RESPONDENT

R U L I N G

1. In his application dated 7/04/2017, the applicant seeks for orders for bail pending appeal. On the face of his application, he states that the appeal has high chances of success.
2. In his supporting affidavit, it deponed that the applicant faithfully attended court during his trial and that if released on bail he would abide by any conditions imposed by the court.
3. The application was opposed by the respondent relying on its replying affidavit sworn by the state counsel Beatrice Manyal. She contended that the applicant has not demonstrated his appeal has high chances of success and that no exceptional or unusual circumstances have been shown.
4. The applicant was convicted of the offence of unnatural offence and sentenced to serve seven years imprisonment by Runyenjes Resident Magistrate on 28/02/2017. He has lodged this appeal alleging that evidence was contradictory and that his defence was not considered. He was not taken for medical examination which would have helped the court to determine whether he had committed sodomy.
5. In an application of this nature, the applicant is required to establish that his appeal had high chances of success. This ground appears on the face of the application but not in the supporting affidavit of the applicant. He swore a very brief affidavit that tells the court nothing about himself save the bail conditions compliance before the trial court.
6. It is my considered opinion that the applicant has not satisfied the threshold of release on bail pending appeal his application must therefore fail.
7. The application is hereby dismissed for lack of merit.
8. It is hereby so ordered.

DELIVERED, DATED AND SIGNED AT EMBU THIS 26TH DAY OF SEPTEMBER, 2017.

F. MUCHEMI

JUDGE

In the presence of:-

The appellant