



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MERU**  
**CRIMINAL CASE NO.70 OF 2017**

**REPUBLIC .....PROSECUTION**

**VS**

**PAUL MITHIKA MINYORI .....ACCUSED**

**RULING**

The appellant herein was convicted on 12<sup>th</sup> June 2017 and sentenced to 18 months imprisonment for the offence of assault causing actual body harm after being acquitted for the offence of stealing.

Having listened to the submissions by the appellant and Respondents counsel, the questions the court is asking is why the trial magistrate settled for sentence of 18 months instead of 5 years.

What were the circumstances that led to the appellant being charged with the offence and stealing and assault instead of robbery with violent if the offences were committed against one complainant? What is the relationship between appellant and complainant? Did the trial Magistrate consider that appellant could be admitted to non custodial sentence considering the sentence is less than 3 years? Was a pre-sentence Report called for?

I do find that in consideration of these questions posed in the mind of the court which can only be answered when the trial courts file is awarded – the appellant is entitled to bond pending appeal. He will be released on bond of Kshs 50,000/- with one surety of similar amount.

Surety to be examined by DR who will explain the surety obligations to the court.

**HON. A.ONG'INJO**

**JUDGE**

Orders accordingly.

**19/10/2017**

Before Adwera – Ong'injo

Penina - C/A

Mr Ojiambo Advocate for Appellant

Mr Murage for state

Appellant – N/A

**HON. A.ONG'INJO**

**JUDGE**

**Court**

**Ruling Delivered, Dated and Signed in court on 19<sup>th</sup> day of October 2017**

**HON. A.ONG'INJO**

**JUDGE**

**Mr Ojiambo**

We seek for further leave to file Petition of appeal.

**Order**

Leave granted to appellant to file and serve petition within 7 days.

**HON. A.ONG'INJO**

**JUDGE**