

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

CRA NO.80 OF 2015

DORIS KENDI.....APPELLANT

-VRS-

REPUBLIC.....RESPONDENT

RULING

By the Notice of Motion dated 15/7/2015, Doris Kendi, the applicant herein seeks to be granted bail pending appeal. The applicant was charged with the offence of dealing with Alcoholic drinks without a license and was convicted and sentenced to a fine of Kshs.100, 000/= in default, to serve one year imprisonment. She contends that she filed an appeal which has high chances of success because the exhibits were not produced in court, and that one is likely to serve a substantial part or the whole of the sentence before the appeal is heard and the appeal will be rendered nugatory.

Mr Kariuki Mugo, Learned Counsel for the State opposed the application for the reasons that having admitted the offence and convicted on her own plea, there is no possibility of the appeal succeeding.

The primary consideration in an application for bail pending appeal is whether the appeal has overwhelming chances of success. It is trite law that where an appellant has pleaded guilty to the offence and is convicted on his own plea, he can only appeal on the length and legality of the sentence but not the conviction. However, there are exceptions to the rule for example, where the plea was not unequivocal.

I have read the proceedings before the trial court and I am satisfied that the appeal has high chances of success. I allow the application and grant the applicant bond. She may be released on cash bail of Kshs.15, 000/=. Counsel to prepare the record of appeal and have it admitted to hearing. Mention on 2.11.2015 to confirm whether or not the record is ready.

DATED, SIGNED AND DELIVERED THIS 26TH DAY OF AUGUST, 2015.

R.P.V. WENDOH

JUDGE

PRESENT:

Mr. Musyoka for State

Mr H. Gitonga for Accused

Ibrahim, Court Assistant

All applicants, Present.