



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**CRIMINAL APPEAL NO. 96 OF 2015**

**EDWARD LIMIRI M'ARANJU ..... APPELLANT**

**V E R S U S**

**REPUBLIC ..... RESPONDENT**

**RULING**

This application is dated 7/10/2015 in which the applicant seeks to be released on bond/bail pending appeal. The grounds upon which the application is brought is that appellant is elderly and sickly; that he was sentenced to two years and bearing in mind that there are no dates available and the appeal may take long to hear, he will have served a substantial part of the sentence. The other grounds are not relevant at this stage.

Mr. Ondieki, Counsel for applicant also submitted that the appeal has high chances of success as the applicant did not understand the charge; that the State did not specify from which land the theft was committed.

The application was opposed by Learned Counsel for the State, Mr. Mungai, who urged that the appeal does not have overwhelming chances of success; that the applicant pleaded guilty on the second day and had a chance to consider the plea; that he understood the language, gave his mitigation and can only appeal on sentence.

I have given due consideration to this application. I note that the applicant did not attach a copy of the charge sheet so this court does not know with which offence he was charged except what can be gleaned from the facts. In such an application, the primary consideration is whether the applicant's appeal will have high chances of success. Without the charge, this court cannot tell whether or not the appeal has high chances of success.

Though one of the grounds is that applicant is elderly and sickly, that is not correct. The applicant is a very young man who looks robust.

The other consideration is whether the applicant is likely to serve a substantial part of the sentence before the appeal is heard. In this case, it is evident that the lower court proceedings have already been typed because the applicant pleaded guilty. The preparation of the record of appeal will not take long. The lower court file has however, not been forwarded to this court. The applicant was sentenced in August, 2015. He has already served 4 months in prison. I take note of the fact that not much work goes on in the months of December and January and I do find that he is likely to serve a substantial part of the sentence before the appeal is heard. For that reason alone, I will allow the application. The applicant may be released on cash bail of KShs.20,000/= . The matter be mentioned on 16/2/2016 and Counsel must be present. The mention is to find out if the lower court file will have been forward to this court from Maua Court.

**DATED, SIGNED AND DELIVERED THIS 9<sup>TH</sup> DAY OF DECEMBER, 2015.**

**R.P.V. WENDOH**

**JUDGE**

**9/12/2015**