



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

CRIMINAL APPEAL NO. 7 OF 2014

STELLA NDUKU MULWA ..... APPELLANT

VERSUS

REPUBLIC ..... RESPONDENT

RULING

1. The application dated **12<sup>th</sup> February 2014** is for bail pending appeal. The applicant was charged and convicted of the offence of Stealing by Servant contrary to **Section 281** of the Penal Code. She was sentenced to serve **one (1) year** imprisonment. Being aggrieved by the conviction and sentence she appealed. She now prays to be released on bail on grounds that the incarceration will be prejudicial to her in event of the appeal being successful; the appeal has high chances of succeeding; she has two (2) children who depend on her and there are no compelling reasons for her continued detention.
2. The state opposed the application stating that it lacks merit.
3. The most important consideration the court should uphold in determining such an application is whether the appeal has high chances of succeeding. (*See Dominic Karanja versus Republic 1986 KLR 816*). In his submissions counsel for the applicant argued that the appeal will be successful because **Section 200(3)** of the Criminal Procedure Code was not complied with. As correctly pointed out the applicant gave an indication of how she wanted the case to proceed pursuant to **Section 200 (3)** of the Criminal Procedure Code.
4. However, considering the length of sentence she ought to serve if not released on bail by the time the appeal is heard she will have served the entire sentence. In the premises she may be released on cash bail of **Ksh.100, 000/=**.
5. It is so ordered.

**DATED, SIGNED and DELIVERED** at MACHAKOS this **21<sup>ST</sup>** day of **MAY, 2014**.

**L.N. MUTENDE**

**JUDGE**