

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CRIMINAL APPEAL NO. 122 OF 2014

JARED AGISA NYAKAMBA APPELLANT

VERSUS

REPUBLICRESPONDENT

(From Original Conviction and Sentence in Criminal Case No.436 of 2014 of the Court Martial at Mtongwe Navy Base, Mombasa)

RULING

By way a chamber Summons application dated the 23rd June, 2014 and which is expressed to be brought under Section 123 (3), 126, 135 of the criminal Procedure Code and article 49(i) (h) of the Constitution the Applicant seeks to be admitted to bond pending his appeal filed in Court.

The grounds are that he was charged in Mtongwe Navy Base with the offence of desertion of duty contrary to Section 74 (1) (A) as read together with Section 74 (3) (A) (iii) of the Kenya Defence Forces Act 2012 vide Criminal Case Number 436 of 2014.

Further that he was subsequently convicted and Sentenced to eighteen (18) months imprisonment.

The grounds are that the appeal has high chances of success and the circumstances are that the proceedings may take along time to be availed to the Court.

This application is not opposed. The Appellant was Convicted by a Court Martial for the offence of desertion and was Sentenced to eighteen (18) months imprisonment. There is an issue as to whether as at the time of the alleged dissertation he had been properly discharged.

I find the application has merit. I accordingly admit him to a bond of Ksh. 500,000/= with one surety or casbail of Ksh. 200,000/= pending the hearing and determination of his appeal.

Ruling delivered dated and signed this **25th** day of **June, 2014**.

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M. MUYA

JUDGE

25TH JUNE, 2014

In open Court and in the presence of:-

Omari for the applicant

Miss Ogwenko for the State