



**REPUBLIC OF KENYA**

**High Court at Mombasa**

**Criminal Appeal 117 of 2012**

***(From Original Conviction and Sentence in Criminal Case No. 918 of 2010 of the Principal Magistrate's Court at Kwale – A.O. Aminga (RM))***

**HASSAN MBWANA CHANGOMA ..... APPELLANT**

**- Versus -**

**REPUBLIC ..... RESPONDENT**

**RULING**

This is an application for bond pending determination of an appeal filed before this Court. It is brought under Section 357(1) of the Criminal Procedure Code and Article 49(1)(h) of the Constitution.

The grounds are that the appeal has overwhelming chances of success and that while in the lower Court the Applicant did not abscond.

In his supporting affidavit the Applicant depones that in the year 2010 he was charged in Criminal Case No. 918 of 2010 at Kwale Law Courts and subsequently convicted and sentenced to 5 years imprisonment on the 1<sup>st</sup> count and one year on the 2<sup>nd</sup> count which sentences were to run concurrently.

The following year 2011 he was arrested while out on bond and charged in Criminal Case No. 280 of 2011 was convicted and sentenced to six years imprisonment on the 1<sup>st</sup> Count, 2<sup>nd</sup> Count 18 months. Sentence to run concurrently.

It is his contention that while on bond on both cases he did not abscond. I have perused the records of the lower Court.

The Appellant pleaded guilty to the charges. The appeal does not have high chances of success at least on conviction. It is not in dispute that while out on bond after having been convicted in another case, he was arrested, charged and convicted in this case.

There is no good reason given showing that if released on bond he would not commit another offence (reforce).

The application for bond has no merit. Bond is denied but appeal to be given a hearing date on priority basis at the registry.

**Judgement read and delivered in open Court this 24<sup>th</sup> day of April, 2013.**

**M. MUYA**  
**JUDGE**

**In the presence of:-**

**Miss Okwengu for State**

**Mr. Magolo holding brief for Mwaboza for the Accused**

**Court clerk – Mr. Musundi**