



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MACHAKOS**

**CRIMINAL CASE NO. 82 OF 2010**

**REPUBLIC ..... RESPONDENT**

**VERSUS**

**GEORGE OGUTU ..... ACCUSED/APPLICANT**

**RULING**

1. The Appellant, **Thomas Mwanzia Musila**, was convicted on his own plea of guilty for the offence of being in possession of narcotic drugs to wit fourteen (14) rolls of cannabis sativa (bhang) and sentenced to seven (7) years imprisonment on 12/7/2012.
2. In an application dated 27/3/2013, the Applicant applied for bail pending appeal. The application is premised on the grounds that the appeal has overwhelming chances of appeal. The Applicant has averred that he has a fixed place of abode and is willing to abide with the terms of bail/bond. The State is not opposed to the application.
3. I have considered the application. I have also perused the lower court proceedings.
4. I have borne I mind for the grant or refusal of bail pending appeal as set out in in **Mwaura v Republic (1986) KLR 600**. The said principles include the following; the nature of the offence, the strength of the evidence, the character or behavior or an accused and the seriousness of the punishment to be meted if the accused is found guilty. The primary underlying consideration is whether the accused will turn up at the appointed place and time for his trial. The court further held that in the exercise of its discretion, if certain exceptional circumstances personal to the accused exist which when weighed against the risk of the accused absconding, the balance will tilt in favour of granting bail. Another factor that the court will consider is whether the accused will interfere with witnesses if he is released on bond.
5. I am inclined to grant bail in this case. I order that the Appellant be released on a cash bail of Kshs.50,000/=.

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**B. THURANIRA JADEN**

**JUDGE**

**Dated and delivered at Machakos this 20<sup>th</sup> day of September 2013.**

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**B. THURANIRA JADEN**

**JUDGE**