

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

CRIMINAL MISCELLANEOUS NO. 4 OF 2013

GILBERT SILA INGOSI.....APPLICANT

VERSUS

REPUBLIC.....PROSECUTOR

RULING

1. **Gilbert Sila Ingosi** the applicant was charged with the two (2) Counts of attempting to obtain money by false pretence contrary to Section 313 as read with Section 389 of the Penal Code. In the particulars of the offence it stated that he obtained Ksh.95 – from each of the complainants by pretending that he would prepare a badge for the United Kingdom Foundation Company of which the complainants would be employees. He was tried, found guilty, convicted and sentenced to 2 years imprisonment and one year imprisonment on the 1st and 2nd Counts, respectively following his plea of guilty.
2. Being aggrieved by the conviction and sentence he now appeals to be released on bail pending appeal.
3. In a response thereto, the Learned State Counsel **Mr. Mwangi** stated that the appeal had no chance of succeeding but the Applicant could be released because by the time the appeal is heard and determined he will have served sentence.
4. I have carefully considered the application for bail. I have also perused the recorded plea of guilty which is unequivocal. As clearly stated the appeal has no *iota* of a chance of succeeding. I have no good reason of even faulting the magistrate for the sentence imposed considering the circumstances in which the offence was committed. In the circumstances, I find the application lacking merit.
5. Accordingly, it is dismissed. The appeal may however be heard and determined on priority basis.
6. It is so ordered.

DATED, SIGNED and DELIVERED at MACHAKOS this 30TH day of OCTOBER, 2013.

L.N. MUTENDE

JUDGE