



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA

**Criminal Appeal 80 of 2012**

*(From Original Conviction and Sentence in Criminal Case No. 47 of 2011 of the Senior Resident Magistrate's Court at Mariakani: D.M. Machage – S.R.M.)*

**SAMMY KAMANZA CHIWAYA ..... APPELLANT**

**=VERSUS=**

**REPUBLIC ..... RESPONDENT**

**RULING**

The Applicant herein through his advocate **MR. MUSHELLE** has applied to be admitted to bail pending the hearing and determination of his appeal. The Appellant was on 19<sup>th</sup> March 2012 convicted of the offence of Defilement of a Child contrary to Section 8(1) as read with Section 8(4) of the Sexual Offences Act 2006. He was thereafter sentenced to serve ten (10) years imprisonment. The Appellant promptly filed an appeal against both conviction and sentence. I have carefully perused the record of the trial before the lower court. I have also considered the Petition of Appeal filed by the Applicant as well as the grounds raised therein. I am mindful of the fact that the Appellant is a student. However in my view the application for bail is not merited and I hereby decline to admit the Appellant to bail pending appeal. However in order to expedite the determination of this appeal I do hereby admit the same for hearing before a single Judge, Deputy Registrar to ensure proceedings are served on the State and counsel to serve State with his petition and Grounds of Appeal within 14 days. Hearing of appeal on 23<sup>rd</sup> July 2012.

**Dated and Delivered in Mombasa this 22<sup>nd</sup> day of June 2012.**

**M. ODERO**  
**JUDGE**

In the presence of:

Mr. Mushelle for Applicant

Mr. Tanui for State