



REPUBLIC OF KENYA

High Court at Mombasa

Miscellaneous Criminal Application 116 of 2012

REPUBLIC.....RESPONDENT

VERSUS

MICHAEL TOLE.....APPLICANT

RULING

The appellant was Convicted and Sentenced to fifteen (15) years for the offence of defilement contrary to section 8(1) as read with section 8(2) of the Sexual offences Act No. 3 of 2006.

This is an application by way of a Notice of Motion filed on 26th July, 2012 in which he seeks for orders of bond pending appeal.

His grounds are that his appeal has high chances of success.

That previously he was out on cash bail of Ksh. 80,000/= in the lower Court which cash bail has not been refunded to him.

That he is the sole breadwinner and his mother is ailing. That he is also ailing after being diagnosed with pneumonia.

He contends that the case in which he was Convicted was a concocted one meant to unduly punish him.

The application for bond is opposed on the grounds that the appellant has not shown that the appeal has high chances of success. It is also alleged that during the hearing in the subordinate Court the appellant had made several attempts to interfere with witnesses.

Apart from alleging that the case against him was a frame-up and one riddled with concoctious the appellant has not satisfied the Court that his appeal has high chances of success. There is no evidence that inordinate delay has been occasioned.

His application for bond pending appeal is rejected he has proceeded to file and serve submissions .

The appeal to be heard on 6th February, 2013.

Ruling read and delivered in open Court this **7th** day of **December, 2012**.

.....

M. MUYA

JUDGE

In the presence of:-

Miss Mwaura for the State

Appellant in person

Court clerk – Musundi

M. MUYA

JUDGE