



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISUMU

CRIMINAL MISC. 48 OF 2011

CAROLYNE NEKOYE.....APPLICANT

-VERSUS-

REPUBLIC.....RESPONDENT

RULING

The applicant/appellant was charged in CMCC NO. 57 OF 2010 with various counts. She denied the charge was tried and convicted. She was fined Kshs 200,000 on the first count or serve 1 year in jail. In count 2 she was equally fined Kshs 200,000 or 1 year in jail and another fine of Kshs 240,000 or a further 1 year under S. 48 1(b) of the Anti Corruption & Economic Crime Act.

The appellant's argument in support of the application is that her appeal has an overwhelming chance of success, she has 2 minor children aged 1 year 2 months and 5 years, she is a widow and in poor health.

The prosecution did not oppose the appeal. Mr. Kiprop agreed with the appellant's counsel that the appeal has an overwhelming chance of success. He urged further that the appellant is likely to serve the sentence before appeal is heard. He also took note of the fact that the appellant did not abscond when admitted to bail in the lower court.

It is trite law that releasing one on bail pending appeal is rare and only done in exceptional circumstances and in doing so the court must consider several factors including the chances of the appeal succeeding, the nature of trial and the time the appeal is likely to be heard.

The appellant was sentenced and jailed on the 24th of May, 2011. There is likelihood that she may serve the sentence before the appeal is heard and determined. There is also concurrence by the prosecution and the appellant's counsel that the appeal has a high chance of success.

In my view this is a proper case of admission to bail/bond pending appeal.

In this regard, I will release the appellant on a bond of Kshs 200,000/= with one surety of a similar amount pending hearing and determination of the appeal herein.

DATED AND DELIVERED THIS 23RD DAY OF SEPTEMBER, 2011.

ALI-ARONI
JUDGE

In the presence of:

..... **for State**

..... **Appellant present in person.**