



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

CRIMINAL APPEAL CASE NO. 41 OF 2011

GEORGE MWENDA NTURIBI APPELLANT

VERSUS

REPUBLIC RESPONDENT

RULING

On 26th October 2011, the appellant filed a notice of motion under Section 357 of the Criminal Procedure Act Cap 75 Laws of Kenya and all other enabling provisions of the law seeking the following order:-

1. *That this Honourable Court be pleased to admit the appellant to bail pending appeal on such terms as it would deem fit and just in the interest of justice.*

He relied on the following grounds:-

- a) *That the appellant was convicted and sentenced to suffer death for the offence of robbery with violence Contrary to Section 296 (2) of the Penal Code.*
- b) *That the appellant was convicted and sentenced in a charge where the prosecution had failed to prove beyond reasonable doubt.*
- c) *That the appellant was on bail throughout the trial and never absconded the same.*

According to the applicant's counsel, viz Mr. Mwanzia urged this court to admit the applicant to bail since the appeal has overwhelming chances of success. In addition to the above, the learned counsel also submitted that the circumstances prevailing during the alleged commission of the offence were not favourable for positive identification of the appellant. Apart from the above, the learned counsel went into details to explain that particular point. Since this court is not dealing with the appeal at this point, it will not be prudent for me to make any comment on the issue of identification. On the other hand, the State through Mr. Motende who is a State Counsel did not oppose the application to admit the appellant to bail. Apart from the above, the State Counsel went out of his way to suggest the terms of bond which the court should impose. However, this court views that suggestion by the State Counsel as not necessary because this court has the discretion to admit an applicant to bail on terms that it thinks are favourable and just.

After carefully considering the application and the submissions by the learned counsels, I hereby concede to the application. In that regard, I hereby direct that the applicant be released on a bond of Kshs. 500,000/= with two sureties for a similar amount. Alternatively, the applicant may be released on his own cash bail of Kshs. 250,000/=.

Those are the orders of this court.

MUGA APONDI
JUDGE

Ruling read, signed and delivered in open court in the presence of:-

Mr. Motende - State Counsel

Mr. Mureithi for Mwanzia - Defence Counsel

MUGA APONDI
JUDGE

23RD NOVEMBER 2011