

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT EMBU

CRIMINAL APPEAL NO. 218 OF 2009

From original conviction and sentence in Cr. case No. 672 of 2005 at the Chief Magistrate's Court at Embu

JOHN KATHURI RUFUS.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

R U L I N G

This is the Applicant's application dated 9th November 2010 for bail pending appeal supported by his grounds and affidavit. He says his appeal has high chances of success, because the prosecution case had gaping holes.

The Applicant was convicted of three counts of forgery and one count of obtaining by false pretences. Produced before the court were genuine documents belonging to the applicant's record with KTDA. Also produced were the documents the Applicant used to obtain loans. These documents were found to have been doctored. He received loans by use of questionable documents. The State opposed the Application saying the Applicant has not demonstrated chances of success of his Appeal. He had not shown any special circumstances. I wish to point out here that the Appeal herein was admitted on 29/6/2011. The lower court records are ready and even the State Counsel was ready to argue this Appeal on 27/10/2011 but the Appellant declined.

I have given an outline of the evidence from the subordinate court. The assumption when one has been convicted is that the conviction was proper as is the case here.

The Applicant has not cited any special or unusual circumstances that would make this court grant him the bail sought.

The chances are that the Appeal will be heard as soon as the Appellant is ready. I therefore find no merit in the Application and disallow it. Appeal to be set down for hearing.

DATED, SIGNED AND DELIVERED AT EMBU THIS 8TH DAY OF NOVEMBER 2011

**H.I. ONG'UDI
J U D G E**