

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CRIMINAL APPEAL NO. 454 OF 2010

*(From Original Conviction and Sentence in Criminal Case No. 19 of 2008 of the Senior Resident Magistrate's Court at Kwale: **Ogembo D.O. – P.M.**)*

MUSYOKA MUSYOKI APPELLANT

=VERSUS=

REPUBLIC RESPONDENT

RULING

Before me is an application made for bail pending appeal. At this point it is not my duty to delve into the merits or otherwise of the intended appeal. Ms. Waweru for the Applicant argues that the Appellant was 16 years and therefore a minor at the time of his conviction. However an age-assessment report produced during his trial indicates that he was 18 years. It is curious why the **'evidence'** on age held by the Appellant's mother was not availed to the trial court. Why is it being raised now **after** his conviction? I am not persuaded on this point. The Applicant stands convicted by a properly constituted court of law. I see no reason to suspend his sentence. I therefore deny this application for bail pending appeal.

Dated and Delivered in Mombasa this 1st day of December 2011.

M. ODERO
JUDGE