



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MERU**  
**Criminal Appeal 94 of 2010**

STANLEY MUNORU M'ANANGA ..... APPELLANT

VERSUS

REPUBLIC ..... RESPONDENT

**RULING**

The appellant has appealed to this court against his conviction and sentence by the lower court where he faced two counts of assault causing actual bodily harm contrary to section 215 of the Penal Code. He was sentenced to a fine of Kshs. 20,000/= on each count and in default to serve 15 months imprisonment. He has now filed a Notice of Motion dated 9<sup>th</sup> June 2010 seeking that he be admitted to bail pending appeal. The application is brought under Section 357 of the Criminal Procedure Code. He stated in support of that application that during his trial before the lower court he was admitted to bail of Kshs. 10,000/=. That during the trial he did not fail to attend court for this case. He also stated that he has high chances of success of his appeal pending before this court. The Court of Appeal in the case **Dominic Karanja Vs. Republic** [1986] KLR page 612 dealt with an appeal against the rejection by the High Court for the applicant to be granted bail pending appeal. In that case, the applicant argued just like in this place that his appeal had high chances of success and if his appeal was successful before the High Court he would have served substantial part of his sentence if bail was not granted. The holding of the Court of Appeal in that case is relevant to the case before us. It was as follows:-

1. ***The most important issue was that if the appeal had such overwhelming chances of success, there was no justification for depriving the applicant of his liberty and the minor relevant considerations would be whether there were exceptional or unusual circumstances.***
2. ***The previous good character of the applicant and the hardships, if any, facing his family were not exceptional or unusual factors. Ill health per se would also not constitute an exceptional circumstance where there existed medical facilities for prisoners.***
3. ***A solemn assertion by an applicant that he will not abscond if released, even if it is supported by sureties, is not sufficient ground for releasing a convicted person on bail pending appeal.***

The application was not opposed by the learned state counsel. He however requested for the court to give sufficient bail terms. I have considered the applicant's application and I have also considered the alleged inconsistencies of the prosecution's case. I however find that at this stage, there is no overwhelming chances of the appeal succeeding. For that reason, the Notice of Motion dated 9<sup>th</sup> June 2010 is hereby dismissed.

Dated and delivered at Meru this 18<sup>th</sup> day of June 2010.

**MARY KASANGO**

**JUDGE**