



REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT MERU  
Criminal Appeal 52 of 2010  
JANE KANARIO ..... APPELLANT  
VERSUS

REPUBLIC ..... RESPONDENT

RULING

What is for consideration in this ruling is the Notice of Motion dated 19<sup>th</sup> April 2010. It is an application for bail pending appeal. The appellant in support of her application has deponed as follows:-

*“That I was charged in Meru Criminal Case No. 1783 of 2008 with 4 counts of obtaining by false pretences c/s 313 of the Penal Code and convicted on the 22<sup>nd</sup> February 2010 on 4 counts of obtaining by false pretences.*

*That I am of poor health and in need of specialized medical care and I pray that I be granted bail pending appeal.*

*That I am likely to serve the entire term if bail is not granted and yet my appeal has high chances of success because the Hon. Magistrate did not consider my defence of alibi.”*

The principles of granting bail pending appeal were well set out in the following cases:- In the case of **Somo Vs. Republic** [1972] EA. 476, the court held that an applicant seeking bail pending appeal had to show his appeal has overwhelming chances of success and in which case he ought not to be kept in prison whilst awaiting the hearing of his appeal. In the case of **Kaguma Vs. Republic** [2004] 1 EA the court held:-

*“For the applicant to obtain bail pending appeal, he had to demonstrate overwhelming chances of success. Minor relevant considerations would be whether there were exceptional or unusual circumstances. Previous good character of the applicant, hardship facing the wife and children, mere ill health, or even a solemn assertion that the applicant would not abscond were not exceptional circumstances.”*

Having considered the application, I find that the appellant’s application is not merited and the same is dismissed.

Dated and delivered at Meru this 29<sup>th</sup> day of July 2010.

**MARY KASANGO**  
**JUDGE**