



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**

**Criminal Appeal 307 of 2010**

*(From Original Conviction and Sentence in Criminal Case No.702 of 2009 of the  
Principal Magistrate's Court at Kwale: D.O. Ogembo – P.M.)*

NABIL ADAMJEE ..... APPELLANT

VERSUS

REPUBLIC ..... RESPONDENT

**RULING**

The Applicant herein has renewed his application for bail pending appeal arguing that new circumstances have arisen which he argues should convince this court to re-consider his application. The new circumstances which he cites are his deteriorating health whilst in prison. I have looked at the medical records supplied by the Applicant which indicate that indeed he suffers a serious ailment, which requires that he be operated on. Notwithstanding all this the fact remains that the Applicant was convicted by a properly constituted court of law. The mere fact that he has filed an appeal is not a ground to release him on bail. The Applicant may be ill but provisions can be made for his treatment whilst in prison custody. I therefore decline to grant the Applicant bail pending appeal. I do direct that the Officer in Charge Shimo la Tewa Prison continue to avail the Applicant for treatment as and when required at Coast General Hospital. Secondly I do order said Officer in Charge Shimo la Tewa to permit Applicant's personal doctor to attend to him at his own cost. If the personal doctor recommends treatment at a different medical facility the Officer in Charge Shimo la Tewa to facilitate his treatment at such medical facility at the Applicant's own costs.

**Dated and Delivered in Mombasa this 4<sup>th</sup> day of October 2010.**

**M. ODERO**

**JUDGE**