REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
CRA NO.111 OF 2010

(Appeal arising from original BGM CM CR. NO.1825 of 2010)

MARTIN WABWIRE KALAMU :: APPELLANT

~VRS~

REPUBLIC ::: RESPONDENT

RULING

This is a ruling on a notice of motion dated 08/10/2010 seeking for bail pending appeal. The Applicant Martin Wabwire Kalamu was convicted of the offence of defilement contrary to section 8 (1) of the Sexual Offences Act by Bungoma Principal Magistrate. Mr. Were argued the application on behalf of the Applicant. The grounds relied on are that the appeal is arguable and has overwhelming chances of success. Further that the language used by the court was not recorded.

The state opposed the application on grounds that the appeal has no chances of success and that the language used was Kiswahili and that the court recorded it accordingly.

I have perused the proceedings of the trial court. The record shows that the accused was convicted on his own plea of guilty. The plea was read to him in Kiswahili which language the ***"accused understood well"*** in the words of the trial magistrate. The facts of the case and the medical evidence do not support the Applicant's ground that the appeal has high chances of success. However, the appeal is arguable. The Applicant has not shown that there is likelihood of any delay in hearing the appeal. The sentence imposed is 15 years and the appeal should be heard expeditiously depending on how soon the record of appeal is prepared. This is a case of Bungoma Court and I do not foresee any undue delay in preparation of the appeal record.

I am not convinced that this case merits granting of bail pending appeal. I therefore decline to grant the prayers sought and dismiss the application accordingly.

F. N. MUCHEMI
JUDGE

Ruling delivered and dated on the 24th day of November 2010 in the presence of the Applicant, Mr. Waswa for Were for the Applicant and the State Counsel Mrs. Leting.

F. N. MUCHEMI
JUDGE