



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

**AT NYERI**

**Criminal Appeal 207 of 2007**

**STEPHEN MURAGU KUBAI ..... APPELLANT**

*Versus*

**REPUBLIC .....RESPONDENT**

**RULING**

The Chamber Summons before court is dated 2<sup>nd</sup> November 2007. The Appellant by that application seeks that he be admitted to bail pending appeal. It is based on the ground that the Appellant's pending appeal has overwhelming chances of success. To demonstrate this Counsel for the Appellant said that the prosecution failed to prove the case on the required criminal standards. He elaborated by saying that the Complainant whom the Appellant was alleged to have injured did not give evidence in the lower court. That the names of the Complainant in the lower court proceedings did not match the name in the charge sheet. Further that that charge sheet failed to reflect that the attack on the Complainant was by more than one person. In respect of the Clinical Officer the Appellant's Counsel said that he did not give his qualifications and he failed to identify the weapon that injured the Complainant. In respect of alibi evidence the counsel argued that the court shifted the burden to the accused. The state opposed the application. In respect of the issues that were highlighted by the Appellant the state said that they showed the appeal to be arguable but not necessary to have overwhelming chances of success.

I have considered the application before court, the submissions made and the proceedings before the lower court. I find that the Appellant has not shown that his case falls within the principles for granting bail. Accordingly the chamber summons dated 2<sup>nd</sup> November 2007 is hereby dismissed.

***DATED AND DELIVERED THIS 19<sup>TH</sup> DAY OF MARCH 2008.***

**MARY KASANGO**

**JUDGE**