

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

Criminal Appeal 16 of 2006

JOHN KOIGI GITHINJI.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

John Koigi Githinji hereinafter referred to as the Applicant was tried and convicted by the Resident Magistrate Mukurwe-ini for the offence of Robbery contrary to Section 296 (1) of the Penal Code. On the 8th August 2005, He was sentenced to serve 3 years imprisonment.

He has now filed an appeal which is pending for hearing. In the meantime He seeks to be admitted to bail pending appeal on the grounds that He has a good appeal which has high chances of success and also that He is suffering from peptic ulcer and requires specialized medical attention and a special diet which He cannot get whilst in prison. He also contends that the conditions in prison are exacerbating his medical condition.

I have had the opportunity of perusing the copy of the proceedings and the petition of appeal and without saying more I can only state that the prospects of the appeal succeeding are not so optimistic as the Applicant would wish to believe.

I have also examined the report signed by the medical officer in charge of prison. The Applicant is alleged to be suffering from peptic ulcer. There is nothing unique about the alleged illness. Prison conditions are known to be stressful and all prisoners do suffer a certain level of stress due to their confinement.

While it is true that the prisons may not be able to offer the Applicant the specialized treatment that He may require, no explanation has been given as to why the Applicant cannot be referred to Kenyatta National Hospital or any other Public Hospital where such facilities are available.

I find that there is no special hardship or compelling reason as to why the Appellant should be admitted to bail. His application is accordingly rejected.

Dated, signed and delivered this 29th day of May 2006.

H. M. OKWENGU

JUDGE