



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA OF KISII**  
**Misc Crim Appli 70 of 2006**

**(From original Criminal case No. 1185 of 2005 of the  
RM's court at Kehancha)**

**STEPHEN MONDU NYAIKOBÉ ..... APPELLANT/APPLICANT**

***VERSUS***

**REPUBLIC ..... RESPONDENT**

**RULING:**

The applicant was convicted by Resident Magistrate Kehancha for the offence of defilement. He was sentenced to 21 years in prison. He now seek court to admit him on bail pending appeal. His counsel told court that appeal has high chances of success and that he is in bad health.

Mr. Kemo the learned Senior State counsel opposed the application.

I have considered the application. There is no medical report annexed to show that applicant is in bad health It is only the word of his counsel that he is in bad health. There was no proof of the same.

I too have perused through the proceedings and judgment. I feel that though the counsel says appellant's appeal has high chances of success that should be left until the appeal is heard.

Suffice it to say that it would not be proper to admit the applicant on bail until the appeal is heard. I believe it will be heard expeditiously and it should not take long before it is disposed off.

I therefore decline to allow the application.

**KABURU BAUNI**

**JUDGE**

Dated 24<sup>th</sup> May 2006

**KABURU BAUNI**

**JUDGE**

Cc – Mobisa

N/A for Applicant