

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL APPEAL NO.348 OF 2003

**(From original conviction and sentence of the Senior Resident Magistrate's
court at Nyamira in Criminal Case No.805 of 2003 – MR. PETER MULWE ESQ.,D.M.II)**

PETER AYORA MASAKI APPELLANT

VERSUS

REPUBLIC RESPONDENT

RULING

I have considered the application and objection. I too gone through the proceeding and memorandum of appeal. One ground of appeal is that the prosecution in the lower court was conducted by a police constable who is an unqualified person. This court is line to the court of appeal decision in CR. APPL. NO.217 OF 2003. I think in the light of that decision the appeal has high chances of success. The appellatant has been in jail for about 3 months now. I find the application is reasonable and allowthesame.

Accused be released on his own bond of shs.20,000/= with one surety of similar amount.

Dated and delivered on 3rd March 2004.

KABURU BAUNI

JUDGE.

Mr. Soire H/B for Mr. Mogere for Applicant