



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL DIVISION**

**MISC. CRIMINAL APPL. NO. 241 OF 2004**

**EPHRAIM KINYUA WAWERU.....APPLICANT**

**VERSUS**

**REPUBLIC .....RESPONDENT**

**R U L I N G**

The Applicant herein, EPHRAIM KINYUA WAWERU, seeks bond pending his Appeal. No. 71 of 2004. The basis of his Application is: -

1) That he has overwhelming chances of the Appeal succeeding.

Learned counsel for the State MR. OGETII did not agree that his Appeal had overwhelming chances of success. On my part I have perused through the record of the lower court. I do not find it apparent from this record that the Applicant's Appeal has an overwhelming chance to succeed. Issues for determination are present, but in my view, they cannot be described as, and do not justify a finding by this court, that there are overwhelming chances of success in the Appeal.

The Applicant also basis his submission on his previous good conduct. That ground carries no weight in determining an Application of this nature. The Applicants previous good conduct is immaterial and does not contribute to grounds of allowing the Application.

The third ground argued is that the Applicant has, since his incarceration, contracted diseases in prison. Again, that ground cannot stand on its own to justify the court to grant the prayer sought. It can only be considered together with other grounds.

Same fate befalls the Applicant's argument that he is a sole breadwinner of his family. That is not a good ground to justify this court to allow the Application as sought.

I find, after carefully considering this Application, that there are no overwhelming chances that the Appeal may succeed. That no exceptional or unusual circumstances exist in this case to warrant this court to grant prayers sought. I find the Application lacks in merit and consequently I dismiss it in its entirety.

Dated 24th November 2004, at Nairobi.

**LESIIT**

**JUDGE**

Read, signed and delivered in the presence of; Applicant present in person

No appearance for Respondent

**LESIIT**

**JUDGE**

Order:

The appellant be taken to Kenyatta National Hospital for medical attention.

**LESIIT**

**JUDGE**