



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CRIMINAL DIVISION**  
**MISC. CRIMINAL APPL. NO. 599 OF 2004**

**KENNEDY OUMA ODUOR.....APPLICANT**

**VERSUS**

**REPUBLIC .....RESPONDENT**

**R U L I N G**

The Applicant **KENNEDY OUMA ODUOR** has applied for a bond pending Appeal on the grounds that he was suffering tremendously as a result of contracting Tuberculosis.

**MISS GATERU**, on behalf of the State, has opposed the Application on grounds that there was no exceptional or unusual circumstances to warrant the court to grant the Application.

The Applicant was convicted of the offence of **ROBBERY** contrary to Section 296(1) of the Penal Code. He was sentenced to 6 years imprisonment. He has been in prison serving sentence since September 2001. He has therefore served half the sentence. The Applicant basis his Application only on the grounds of sickness. Sickness alone is not sufficient to warrant such an Application. The Applicant had not demonstrated any exceptional or unusual circumstances whether on account of sickness or any other basis that would justify the Court to rule in his favour. Tuberculosis is not an unusual condition especially in our prisons. He has not alleged that he is unable to get medication or treatment for it while in prison.

The Applicant has, in the alternative asked that his Appeal be given a near date. I believe that prayer is justified on account of the fact that the Applicant's Appeal was admitted way back in 2002.

Having considered this Application, I dismiss prayer 1 for having no merit. I will allow prayer two by ordering that the Registry should give hearing dates for this Appeal no later than January 2005

Orders accordingly.

Dated 3rd December 2004, at Nairobi.

**LESIIT**

**JUDGE**