

REPPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

ÁT NAKURU

CRIMINAL APPLICATION NO.53 OF 2003

BENSON KANGETHE NJENGA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

R U L I N G

The applicant BENSON KANGETHE NJENGA has applied to be admitted to bail bond on grounds he has ulcers, hypertension and asthma.

He claims he is unable to get medicine at Provincial General Hospital, Nakuru since he is asked to purchase them which he is unable to do while in prison. He also argued that he needed special diet which he is unable to get in prison. He complained of being squeezed while in prison during the night making him uncomfortable due to peptic ulcers.

The application is opposed on grounds that the applicant did not show that his appeal had overwhelming chances of success. He also submitted that the applicant has admitted that he is taken care of at Provincial General Hospital Nakuru and that if the problem was expensive drugs, bail bond will not ease the problem. I have considered the application and submissions by both sides. The applicant has not annexed anything to show he suffers from any ailment.

Besides, I do find that he has been accorded sufficient medical attention while in prison on issues of discomfort while in prison, a prison is not a comfort zone and an application cannot be based on that ground alone.

On diet, the applicant can solve the problem himself by making such a request through doctors who attend to him and I am sure that Prison authorities will adhere to recommendations made on medical grounds.

I have also scanned through the lower court's Judgment and do find that the appeal has no overwhelming chances of success.

I find no merit in this application and do dismiss it in its entirety.

Orders accordingly.

JESSIE LESIIT

JUDGE

Read, signed and delivered this 16th day of July, 2003.

In presence of Applicant in person.

Mr. Mutuku for State.

JESSIE LESIIT

JUDGE