



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**APPELATE SIDE**

**CRIMINAL APPEAL NO.198A OF 2001**

**(Being an appeal from Original Conviction and Sentence in Criminal Case No.1099 of 1998 of the Principal Magistrate's Court at Malindi –J. Manyasi, SPM)**

**FREDRICK CHARO YAA ..... APPLICANT**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

**RULING**

The applicant was charged with another on various counts of forgery and uttering false documents contrary to Section 349 and 353 respectively of the Penal Code.

The applicant was found guilty on all 8 counts and sentenced to various terms of imprisonment to run concurrently for the maximum of 4 years. The applicant has filed a petition of appeal.

The grounds upon which the bail is applied for is that the appeal has high chances of success. On this issue I have considered the submissions of counsel for the applicant and the proceedings. I can say that the applicant has an appeal which is yet to be admitted. In the case of Somo v. Republic 1972 the main and important ground for granting bail is where the appeal has such overwhelming chances of success that it is not justified for the continued imprisonment thereby depriving the applicant his freedom. In this case I am unable to say that the applicant has overwhelming chances of success. The counsel submits that there is high chances of success. This is not enough for purposes of granting bail.

At this stage the applicant is serving lawful judgment passed by a court of law and unless there is special circumstances, which I do not find, bail will not be granted. For these reasons application is dismissed.

Dated at Mombasa this 2nd Day of October, 2001.

**J. KHAMINWA**

**COMMISSIONER OF ASSIZE**

**Read in presence of Mr. Gumo State Counsel and Mr. Chingiti for Odiaga.**

**J. KHAMINWA**

**COMMISSIONER OF ASSIZE**

