

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
APPELLATE SIDE
MISC. CRIMINAL APPLICATION NO.66 OF 2001

PAUL OKUKU MIREGI APPLICANT
VERSUS
REPUBLIC RESPONDENT

RULING

By Notice of Motion the Applicant seeks to be granted bail.

He was charged with obtaining money by false pretences contrary to Section 313 of the Penal Code. The particulars show that he stated that he needed Shs.4000/- to influence the termination of criminal case No.642 of 1999 then pending in Mombasa Municipal Court. His counsel submits that the appeal has good chances of success.

This application is opposed by the State on the ground that the appeal has not been admitted and has no overwhelming chances of success and that there is no delay in prosecuting the appeal.

After perusing the record and considering the submissions of counsel, I am inclined to side with counsel for the applicant. Section 313 of Penal Code deals with false pretence as defined under Section 312 Penal Code. It is a representation of a fact either past or present no into future. If I am right then the appeal can be said to have overwhelming chances of success. I therefore grant bail to the applicant on condition that he will execute personal bond in the sum of Shs.10,000/- with one surety in similar amount.

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

J. KHAMINWA

COMMISSIONER OF ASSIZE

Read in presence of Mr. Gumo State Counsel and Mr. Ngombo for
Applicant.

J. KHAMINWA

COMMISSIONER OF ASSIZE