



**Hamisi v Republic (Criminal Appeal E038 of 2023)
[2023] KEHC 20649 (KLR) (20 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20649 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL APPEAL E038 OF 2023**

**A. ONG'INJO, J
JULY 20, 2023**

BETWEEN

BISHARA HAMISI APPELLANT

AND

REPUBLIC RESPONDENT

RULING

Application

1. The Notice of Motion application dated May 16, 2023 was brought under Section 349 and 357 of the [Criminal Procedure Code](#) seeking for orders that the Honourable Court do grant the appellant bail pending appeal.
2. The application is premised on grounds that the appellant's appeal has overwhelming chances of success and that by the time the appeal is ready for hearing and by the time the appeal is heard and determined, the appellant would have served a good portion of the sentence and in the event he eventually succeeds, he will have suffered irreparable loss that is incapable of being compensated in any other way.
3. The application was supported by the affidavit of Yusuf M Aboubakar, the appellant's advocate reiterating the grounds on the face of the application.
4. The directions were given on June 12, 2023 for the application to be canvassed by way of written submissions upon the respondent filing their response within 7 days but to date, no response has been filed and the parties have not filed submissions.
5. The lower court file, Msambweni Magistrate's court Sexual Offence Case No 87 of 2019 was availed for this court's perusal and the court is not satisfied that there are overwhelming chances of success of the appeal or any exceptional circumstances that would warrant grant of bail pending appeal. The



application dated May 16, 2023 is dismissed. This appeal will be mentioned on October 2, 2023 to confirm that records of appeal have been supplied and directions of hearing of the appeal.

**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS,
THIS 20TH DAY OF JULY 2023**

HON. LADY JUSTICE A. ONG'INJO

JUDGE

In the presence of: -

Ogwel- Court Assistant

Mr. Ngiri for Respondent

Mr. Aboubakar Advocate for the Appellant

Appellant present in person

