

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CRIMINAL APPEAL NO. 182 OF 2016

MICHAEL KUHORA NJERI.....APPELLANT

VERSUS

REPUBLIC.....STATE

(Appeal from the Conviction and Sentence of the Chief Magistrate's Court at Nakuru Hon. E. Kelly - Resident Magistrate delivered on the 22nd November, 2016 in CMCR Case No. 3535 of 2014)

RULING

The appellant herein **MICHAEL KUHORA NJERI** has through his advocate **Mr. Gacheru** filed an application seeking to be released on bond during the pendency of his trial. The application was strenuously opposed by the learned State Counsel. The appellant had been tried and convicted in the Magistrate's Court in Nakuru for the Offence of **Assault Causing Actual Bodily Harm** and was sentenced to serve three (3) years in jail.

At this stage the court is not being required to assess the merits or otherwise of the appeal. All the court is being asked to do is to determine whether the appellant merits a grant of bond pending the hearing and determination of his appeal.

The grant of bond at this stage will depend on several factors

- (i) The nature and circumstances of the offence
- (ii) Whether the appeal is likely to succeed
- (iii) Whether the appellant is a potential flight risk
- (iv) Whether the appellant is likely to re-offend if released on bail
- (v) Whether the appellant is likely to serve a substantial part of his sentence before the appeal is heard and determined.

I have carefully perused the record of the trial before the lower court. I have also considered the factors listed above which would influence the grant to bond pending the appeal. I have considered also the submissions of both counsels in the matter. Without prejudging the appeal I find no merit in the present application. I therefore decline to grant the appellant bail pending appeal. He will continue to serve the sentence until the appeal is heard and determined.

It is so ordered.

Dated in Nakuru this 10th day of February, 2017.

Maureen A. Odera

Judge