

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL APPEAL NO.446 OF 1998

ERNEST SHIVACHI AMULELE.....APPELLANT
VERSUS
REPUBLICRESPONDENT

R U L I N G

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The applicant was convicted of the offence of Theft by servant c/s 281 of the Penal Code and sentenced to (6) six months imprisonment. Being aggrieved by the said conviction and sentence the applicant lodged an appeal. There is now before me an application under section 357(I) of the Criminal Procedure Code cap. 75 law of Kenya for an order that the applicant be admitted to bail pending the hearing and determination of the appeal.

The most important ground in such an application is that the appeal has an overwhelming chance of being successful; in that case there is no justification for depriving the applicant of his freedom. See Somo -v- Republic (1972) E.A. 476. After the learned counsel for the applicant made his submissions, the learned counsel for the Republic conceded that the appeal has high chances of success as the applicant was convicted on suspicion only.

I have gone through the record and the petition of appeal. with respect, I agree with both learned counsel that the applicants appeal has overwhelming chances of success. That being the case he is entitled to bail pending the hearing and determination of the said appeal.

I order that he shall be released on executing a personal bond of Kshs. 5,000/- with one surety of a like sum. He shall attend the hearing of his appeal.

Order accordingly.

Dated and delivered at Nairobi this 4th day of November, 1998.

A. MBOGHOLI MSAGHA

JUDGE