



**IN THE COURT OF APPEAL**

**AT NAIROBI**

**MISCELLANEOUS CRIMINAL APPLICATION NO. 35 OF 1984**

**BETWEEN**

**AMRITLAL JIVRAJ SHAH.....APPLICANT**

**AND**

**REPUBLIC.....RESPONDENT**

**RULING**

The question on whether or not the applicant committed theft in this case is complicated by the acquittal of the applicant on the 1st count. In the absence of more detailed argument I am not prepared to say that there is an overwhelming probability of success in this appeal. Such a finding might embarrass the court hearing the appeal.

I am however concerned about the health of the applicant. He is a case of uncontrolled *diabetes mellitus* and it appears from the certificate of Dr Obel that neither the prison diet nor the hospital diet is suitable for his condition since he is a strict vegetarian. Only at home can he obtain a diet suitable for his condition.

In these circumstances bail is granted on the same terms as in the lower court, that is his own bond of Kshs 250,000 with the same two sureties as before in the sum of Kshs 200,000 each. In addition his passport will be deposited in court.

**Dated and Delivered in Nairobi this 7th day of February 1984.**

**A.H.SIMPSON**

.....

**JUDGE OF APPEAL (CJ)**

I certify that this is a true

copy of the original

**DEPUTY REGISTRAR**