



REPUBLIC OF KENYA



KENYA LAW
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**Wamalwa v Republic (Criminal Appeal E119 of 2024)
[2025] KEHC 5891 (KLR) (30 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5891 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
CRIMINAL APPEAL E119 OF 2024**

REA OUGO, J

APRIL 30, 2025

BETWEEN

RONALD WAMALWA APPELLANT

AND

REPUBLIC PROSECUTION

RULING

1. The applicant seeks bail/bond pending the hearing and determination of the application and pending the hearing and determination of the appeal. The application is brought under Section 123 & 357 of the *Criminal Procedure Code* Cap 75 Law of Kenya and Article 49 of *the Constitution* of Kenya 2010.
2. The applicant avers in his affidavit in support of the application that; he is currently serving sentence at Kisumu Maximum Prisons and was convicted and sentenced on the 9th of April 2024. He has preferred an appeal challenging the conviction and sentence. He is hypertensive hence he requires urgent medical attention outside the prison whose facility lacks sufficient medical care. His appeal has overwhelming chances of success as can be confirmed from the copy of the Appeal. Unless the orders are granted the appeal is likely to be rendered academic. He is a family man and resides within the County of Bungoma and will honor the condition of this court for his release on bail/bond pending the hearing and determination of the appeal. The release on bail/bond pending appeal is a basic constitutional right guaranteed under Article 49 of *the Constitution* of Kenya.
3. The respondent did not oppose the application.
6. In the case of *Dominic Karanja v. Republic* [1986] KLR 612 the Court of Appeal held that:
 - a. The most important issue was that if the appeal had such overwhelming chances of success, there is no justification for depriving the Applicant of his liberty and the minor relevant considerations would be whether there were exceptional or unusual circumstances.



- b. The previous good character of the applicant and the hardships, if any, facing his family were not exceptional or unusual factors. Ill health per se would also not constitute an exceptional circumstance where there existed medical facilities for prisoners.
 - c. A solemn assertion by an Applicant that he will not abscond if released, even if it is supported by sureties, is not sufficient ground for releasing a convicted person on bail pending appeal.
 - d. Upon considering the relevant material in this case, there was no overwhelming chance of the appeal being successful.
4. The applicant claims that he is not well and that his appeal has a high chance of success. The applicant has failed to annex any medical report to show that he is unwell and that he cannot be treated within the prison facility. The offense he was charged with is a serious offence. The record of appeal is ready and appeals in this court are heard expeditiously. I decline to grant the applicant bail pending appeal. His application is dismissed. The court will give direction on the hearing of his appeal forthwith after reading this Ruling. The proceedings are ready and the appeal shall be fast-tracked.

DATED, SIGNED, AND DELIVERED AT BUNGOMA THIS 30TH APRIL 2025.

R.E. OUGO

JUDGE

In the presence of:

Ronald Wamalwa Applicant/ Appellant

Miss Matere -State

Wilkister - C/A

