



**IN THE HIGH COURT OF MALAWI**  
**PRINCIPAL REGISTRY**  
**CRIMINAL DIVISION**  
**CRIMINAL CASE NO. 3 OF 2016**

**BETWEEN:**

**CHIMWEMWE CHIMBANGA.....APPELLANT**

**–V–**

**THE REPUBLIC.....RESPONDENT**

**Coram: Hon. Justice M L Kamwambe**

Salamba of counsel for the State

Maele of counsel for the Appellant

Phiri...Official Interpreter

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**RULING**

**Kamwambe J**

This is summons for release of the Applicant on bail pending Appeal. The Applicant was 37 years old at the time of commission of the crime. He was arrested on 19<sup>th</sup> April, 2016 for having carnal knowledge with the victim Rejoice Zimphondo at Chilomoni Township in Blantyre between January and April, 2015.



The court denied granting bail because the case is strong against the Applicant. In any case this court is put in an awkward situation of staying its own judgment and granting bail pending appeal when it does not see likelihood of success of appeal in the Supreme Court of Malawi.

The circumstance of the case are that the Applicant challenged the prosecution that it never proved the age of the girl child victim. The medical report which was admissible in court carried the age of the child. The report is one whole document and is not to be dissected into two parts as the Applicant wishes it to be. Once the report is declared admissible it is admissible as a whole report. It is irrelevant to question the source of the age of the girl child victim at this stage when the applicant was duly represented by counsel in the lower court and did not argue the issue of age at that level.

All in all I hold the view that there is little prospect of success of the application.

Following the narration above, the stay of sentence and bail application pending appeal are denied.

**Made in Chambers this 6<sup>th</sup> day of March 2017 at Chichiri, Blantyre.**



M.L. Kamwambe  
**JUDGE**