



Malawi Judiciary



IN THE MALAWI SUPREME COURT OF APPEAL

SITTING AT BLANTYRE

CIVIL APPEAL CAUSE NO. 14 OF 2015

(Being Criminal Case No 21 of 2012)

BETWEEN:

JONATHAN MEKISENI

DITTER SITIMA

JEKAPU JOSEPH

HAPPINESS MWINJIRO..... APPELLANTS

AND

THE REPUBLIC.....RESPONDENT

CORAM : HONOURABLE JUSTICE E. B. TWEA, SC JA

MR MaeleCounsel for the Appellant

Absent.....Counsel for the Respondent

Mr MinikwaCourt Clerk



RULING

The appellants, who were convicted on charges of robbery before the Principal Resident Magistrate, sitting at Midima Court, appealed the judgment to the High Court. The High Court dismissed their appeal and confirmed the convictions and sentences passed by the Principal Resident Magistrate. The appellants were dissatisfied with the judgment of the Court below and appealed the judgment to this Court. They have brought this application to stay the sentence and pray for bail pending appeal.

First and foremost, I must point out that this application falls under section 11 (2) of the Supreme Court of Appeal Act which provides that:-

“(2) Any person aggrieved by a decision of the High Court in its criminal appellate jurisdiction or exercise of the powers of review conferred upon the High Court by Part XIII of the Criminal Procedure and Evidence Code may appeal to the Court on a matter of law but such decision shall be final as to matters of fact and as to severity of sentence”.

It is important to state this at the outset because a person who has been convicted cannot be presumed to be innocent and therefore does not, any more, have the right to be released, with or without bail. Admission of a convict to bail, although provided for under section 24 (1) of the Supreme Court of Appeal Act, is not a right. Bail after conviction is at the discretion of the Court where it

