

IN THE LESOTHO COURT OF APPEAL

In the Application of:

NTETI MAKAMOLE  
TENTENKI RABIRI

1st Applicant  
2nd Applicant

v

R E X

Respondent

HELD AT MASERU

CORAM:

MAISELS, P.

DENDY YOUNG, A.J.A.

SCHUTZ, A.J.A.

(BAIL APPLICATION)

J U D G M E N T

Maisels, P.

This matter comes before us by way of application by two persons who were convicted in the High Court and sentenced at the end of last year. The application appears to be brought in terms of section 14 of the Court of Appeal Act which provides that this Court or the High Court may if it deems fit on the application of an appellant and pending the determination of his appeal

- (a) admit appellant to bail;
- (b) postpone the payments of any fine imposed upon him.

When Mr Matlhare, who appeared for the applicants, commenced his argument today it was pointed out to him by the Court that the applicants are not in the position of appellants/....

of appellants as no notice of appeal has been filed. Neither this Court nor the High Court has any jurisdiction to hear a matter of this nature until the notice of the appeal has been filed.

In order not to prejudice the applicants in regard to any application or future application they may wish to make to High Court, I wish to make clear that this present application is being dismissed for want of jurisdiction in the sense that this Court cannot consider the matter at all until a notice of appeal has been filed.

If and when a notice of appeal is filed, the applicants may if they so desire make an application to the High Court or possibly to this Court for the applicants to be admitted to bail. I may say, although this is not necessary for the purpose of decision in this case that one of the matters to which the applicants ought to give consideration is the question of reasonable prospects of success on the appeal - I merely mention this in passing. I think the proper order to be made in the interest of the applicants is that the application should be struck off.

SIGNED: I.A. MAISELS  
PRESIDENT

Dendy Young, A.J.A.

Save for the penultimate sentence, I agree with what has fallen from the learned Judge President and with the order he proposes.

As presently/.....

As presently advised I do not think it necessary for an appellant applying for bail pending an appeal to allege or show that there are reasonable prospects of success in the appeal; an arguable case is the most that can be demanded of him.

Signed J.R. DENDY YOUNG  
ACTING JUDGE OF APPEAL

Schutz, A.J.A.

I agree with what has been said by the learned President.

Signed W.P. SCHUTZ  
ACTING JUDGE OF APPEAL

Delivered on the 9th day of January 1980 at MASERU.

For Appellants: Mr Matlhare  
For Respondent: Mr Muguluma