



**Ngutu v Republic (Criminal Application E112 of 2024)  
[2024] KEHC 10196 (KLR) (15 August 2024) (Ruling)**

Neutral citation: [2024] KEHC 10196 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL APPLICATION E112 OF 2024  
RE ABURILI, J  
AUGUST 15, 2024**

**BETWEEN**

**HEZRON AURA NGUTU ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(From the original conviction and sentence in Kisumu CM Sexual Offence  
Case NO. 770 of 2010, SRM on 21st November, 2012 by Hon.J. Ong'ondo)*

**RULING**

1. The applicant is a convict of the offence of defilement under section 8(3) of the *Sexual Offences Act*. He was sentenced to serve twenty years in prison and from his application, he filed an appeal vide HCRA 130 of 2012 which was dismissed. He also filed a further appeal to the Court of Appeal vide CoA CR Appeal No. 85 of 2014 which was also dismissed.
2. is pending. he seeks to be released on bond pending appeal. There is no reason why he did not apply within the appeal file instead of duplicating file.
3. The applicant seeks orders that the period spent in custody pending trial be taken into account. he has however not annexed any court proceedings or judgments passed at various levels to demonstrate that the courts have not taken into account the provisions of section 333(2) of the *Criminal Procedure Code* in sentencing. In his application, he wants to be released because he has spent 20 years in custody. If that be the case, then the incarceration period will automatically end at the close of 20 years therefore he does not require an order of this court to have him released.
4. Accordingly, I find no material upon which to make any favourable orders.
5. I dismiss the application dated 11.6.2024.
6. Signal to issue.



7. This file is closed.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 15<sup>TH</sup> DAY OF AUGUST, 2024**

**R.E. ABURILI**

**JUDGE**

