



**Atira v Republic (Criminal Miscellaneous Application E053 of 2024)
[2024] KEHC 11830 (KLR) (27 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11830 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL MISCELLANEOUS APPLICATION E053 OF 2024
RE ABURILI, J
SEPTEMBER 27, 2024**

BETWEEN

AGNETA AKOTH ATIRA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant is Agneta Akoth Atira. She was convicted of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. she was jointly convicted with one Tom Opiyo Odati vide Siaya HCR Case No. E013 of 2020. They were each sentenced to serve 10 years imprisonment on 13/6/2022 vide Application No. E139/2022.
2. Tom Opiyo Odati sought for orders for the court to consider the time spent in custody. However, that application was dismissed on 26/10/2022 for reasons that the sentence imposed on 13/6/2022 took into account the period spent in custody during their trial.
3. The applicant in this application dated 14/6/2024 seeks orders that the court should release her because she is reformed and that Section 333 (2) of the *Criminal Procedure Code* on the time spent in custody be considered.
4. I have considered the application. I find it an abuse of court process and devoid of merit, noting that that the court in its sentencing remarks took into account the period spent in custody and more so, the 10 years imprisonment imposed was too lenient since the mandatory sentence is death.
5. Furthermore, the convicts were not in custody the entire period of their trial. They were released on bond on 15/2/2022.
6. Accordingly, the application filed on 14/6/2024 is dismissed and this file is closed.
7. Signal to issue. I so order.



DATED, SIGNED AND DELIVERED AT SLAYA THIS 27TH DAY OF SEPTEMBER, 2024.

R. E. ABURILI

JUDGE

