



REPUBLIC OF KENYA



**Msula v Republic (Miscellaneous Criminal Application E048 of 2024)
[2024] KEHC 11777 (KLR) (27 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11777 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CRIMINAL APPLICATION E048 OF 2024
RE ABURILI, J
SEPTEMBER 27, 2024**

BETWEEN

FREDRICK OTIENO MSULA APPLICANT

AND

REPUBLIC RESPONDENT

*(Being an Application for review of Conviction and sentence of Siaya CM's S.O
Case No. E025 of 2022 delivered by Hon. M. O. Wambani, (C.M) on 7/11/2023)*

RULING

1. The Applicant Fredrick Otieno Msula was convicted of the offence of defilement contrary to Section 8(1) as read with Section 8(4) of the [Sexual Offences Act](#). He was sentenced to serve ten (10) years imprisonment on 7/11/2023.
2. The convict now applies vide his application dated 10/6/2024 for consideration of Section 333 (2) of the [CPC](#), for period spent in custody to be taken into account.
3. I have considered the application dated 10/6/2024 and perused the entire trial court file. The charge sheet shows that the convict was arrested on 8/9/2022 and he took plea on 12/9/2022. On the later date, he was granted bond of ksh200,000/= plus one security of similar amount. However, there is no evidence that he availed the security for approval.
4. For the above reasons that he was in remand custody throughout the trial, I find his application merited. I order that the sentence imposed shall be calculated from 8/9/2023 the date of arrest of the convict Fredrick Otieno Msula.
5. Signal to issue. This file is closed. I so order.

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



R. E. ABURILI
JUDGE

