



**Muturi v Republic (Miscellaneous Criminal Application
E013 of 2020) [2022] KEHC 10417 (KLR) (28 April 2022) (Ruling)**

Neutral citation: [2022] KEHC 10417 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
MISCELLANEOUS CRIMINAL APPLICATION E013 OF 2020
GWN MACHARIA, J
APRIL 28, 2022**

BETWEEN

JOHN MWENDA MUTURI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant herein, John Mwenda Muturi was charged at Engineer Senior Principal Magistrate's Court in Criminal Case No. 631 of 2016 with the offence of being in possession of bhang contrary to Section 3(2)(a) as read with Section 3(2)(1) of the Narcotic Drugs and Psychotropic Substances Control Act No. 4 of 1994. The particulars of the offence were that on the 7th day of July, 2021 at Gatondo Village in Kipipiri District within Nyandarua County, was found in possession of three bags of bhang with a street value of Ksh. 150,000/ which was not solely prepared for his consumption.
2. After the trial, the Applicant was found guilty and convicted accordingly. He was sentenced to serve 5 years imprisonment on 10th April, 2019.
3. He approached this court vide a Chamber Summons application filed on 2nd October, 2020 seeking a revision of his sentence which he urged that it be reduced. The Chambers Summons is accompanied by a Supporting Affidavit and Grounds of Mitigation. He pleaded for leniency on the grounds that he was diabetic, was remorseful, the sole bread winner to his family and that he had since reformed by undertaking religious lessons in prison. He reiterated the same grounds in support of the application in the oral submission. He added that he was due to complete his sentence in August this year (2022).
4. Learned State Counsel, Miss Maingi had no objection to the application.
5. I have accordingly considered the application. I note that the Prison vide a letter dated 13th September, 2021 vouch the Applicant as a reformed prisoner who has undertaken to advise other prisoners on behavioral change and that he works well without supervision. Additionally, a probation Officer's



Report dated 9th July, 2021 also recommends that he can serve the remainder of the sentence under probation. Notably also, is that the Applicant is an old man of 70 years and does not have a record of similar offences.

6. In my view therefore, the Applicant has reformed and the period he has served in custody should serve as sufficient punishment.
7. Accordingly, his application succeeds. I allow the same with orders that he be forthwith set free unless otherwise lawfully held. I order that the trial court file be remitted back to the trial court.
8. It is so ordered.

DATED AND DELIVERED AT NAIVASHA THIS 28TH APRIL, 2022.

G.W.NGENYE-MACHARIA

JUDGE

In the presence of:

Applicant in person.

Miss Serlin for the Respondent.

