



**Malowa v Republic (Criminal Revision E074 of 2022)  
[2022] KEHC 10969 (KLR) (1 August 2022) (Ruling)**

Neutral citation: [2022] KEHC 10969 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
CRIMINAL REVISION E074 OF 2022**

**JN KAMAU, J  
AUGUST 1, 2022**

**BETWEEN**

**FRANCIS OUMA MALOWA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The Applicant and his co-accused were charged with the offence of burglary contrary to Section 304 (2) and Staling contrary to Section 268 as read with Section 279 (b) of the Penal Code 63 (Laws of Kenya). They were also charged with the alternative charge of handling stolen property contrary to Section 322 (1) (2) of the Penal Code. They were arrested on 20/6/2021 and were admitted to bail on 29/6/2021. The Applicant herein was fined kshs. 60,000/= or in default to serve eighteen (18) months imprisonment on 2/11/2021. The earliest possible date given by Prisons is 2/11/2021. He has so far spent eight (8) months in prison. He spent five (5) months twelve (12) days in custody before he was convicted and sentenced. The Report by Joyce Achieng Odhiambo Probation/Community Service Officer filed on 29/7/2022 recommends that the Applicant serves Community Service Oder at Airstrip Primary School. According to the Prisons, he has three (3) months left. However, taking into account the Applicant spent in custody in line with Section 333 (2) of the Criminal Procedure Code Cap 75 (Laws of Kenya), he has already completed his sentence. It is hereby directed that the Applicant be and is hereby released from custody forthwith unless he be held for any other lawful cause. Orders accordingly.

**DATED AND DELIVERED AT BUSIA ON THIS 1ST DAY OF AUGUST 2022.**

**J. KAMAU  
JUDGE**

