

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL REVISION NO. 47 OF 2020

(CORAM: R. E. ABURILI - J.)

SALIM MOHAMMED ASMAN.....APPLICANT

VERSUS

REPUBLIC..... RESPONDENT

(Being an Application for Revision of sentence vide Criminal Case No. 128 of 2018 in the Senior Resident Magistrate's Court, Ukwala dated 4.3.2020 before Hon. C.I. Agutu, SRM)

RULING

1. The convict herein **Salim Mohammed Asman** is a second offender for the same offence of being found in possession of narcotic drugs in this subject of ***Ukwala SRM Cr. Case No. 128/2018*** and in ***Ukwala SRM Cr. Case No. 28/2020***. In the latter case, he was sentenced to serve 6 months imprisonment but this court has already quashed the sentence as the plea was unequivocal and fatally defective.
2. In the instant matter subject of ***Ukwala SRM Cr. Case No. 128/2018***, the convict was sentenced to serve Community Service Order for 6 months following a plea of guilty but he breached the terms and conditions of CSO so he was arrested and committed to serve 46 days in prison on 4/3/2020 and sentence was to run concurrent with sentence in ***Cr. Case No. 28/2020*** which is now concluded vide ***Cr. Revision 46 of 2020***.
3. The convict has served about 26 days in prison and the Assessment Report filed by SSP Joseph K. Mwalo, Officer Incharge, Siaya G.K Prison dated 29/3/2020 shows that he is disciplined and of good conduct albeit a second offender.
4. Exercising discretion to promote prison decongestion in this COVID-19 pandemic era, I hereby order that the convict **Salim Mohammed Asman** shall be released from prison to serve the remainder of the prison term on suspended sentence and being a repeat offender, to report to the OCS Ugunja Police Station every Friday of the week upon his release until the suspended sentence term is over.
5. Orders accordingly.

Dated, signed and Delivered at Siaya, this 30th Day of March 2020.

R.E. ABURILI

JUDGE