

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MAKUENI

HCCRA NO. 31 OF 2019

ANNASTACIA NDUKU.....APPELLANT

-VERSUS-

REPUBLIC.....RESPONDENT

JUDGMENT

1. **Anastacia Nduku** the Appellant was charged and convicted of the offence of trafficking in narcotic drugs contrary to Section 4 (a) of the Narcotic and Psychotropic Substance Act of 1994. She was fined Kshs.300,000/= in default three (3) years imprisonment, on 17th November, 2017.
2. She was not able to pay the fine and is serving sentence. Her appeal is against sentence only.
3. Ms. Owenga for the State has conceded the appeal saying the sentence already served is sufficient.
4. The Appellant was found in possession of bhang and some bhang seeds in June 2017. By the time she was convicted and sentenced she was heavy with child. She eventually delivered a baby girl who she is with in prison.
5. She has served 17 months (i.e. 1 year, 5 months) of the sentence imposed on her. Considering what was recovered from her, the baby she delivered while in prison and the other children she left unattended, I believe she has had enough mental torture which should not be allowed to go on.
6. **I agree with the State that what the Appellant has served is sufficient punishment. I allow the appeal on sentence only. The sentence is set aside and substituted with the period already served.**

Orders accordingly.

DELIVERED, SIGNED & DATED THIS 30TH DAY OF APRIL 2019, IN OPEN COURT AT MAKUENI.

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H. I. ONG'UDI

JUDGE