



**Korir v Republic (Miscellaneous Criminal Appeal E012 of 2024)
[2025] KEHC 1882 (KLR) (6 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1882 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ITEN
MISCELLANEOUS CRIMINAL APPEAL E012 OF 2024
E OMINDE, J
FEBRUARY 6, 2025**

BETWEEN

KENNETH KIPROTICH KORIR APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant’s Application filed on 13th August 2024 is brought under Section 333(2) of the [Criminal Procedure Code](#) seeking that the Period of 16 months that he spent in remand be factored into the sentence of 5 years’ imprisonment that was handed down to him by the Trial Court
2. The Prosecution in its oral response objected to the Application and stated that this period had already been factored in by the Trial Court at the time of sentencing. The Applicant disputed this submission and stated that at the time of sentencing, he was only informed of his right to appeal within 14 days.
3. I have perused the Lower Court file. I have noted that the Applicant did pray for leniency in his mitigation and he cited the fact that he had been in remand throughout the trial and requested that the court takes this into consideration in passing the sentence.
4. However, I note from the record of proceedings of the sentencing that the Court did not consider this mitigation in sentencing the accused and the court did also not act on its own motion to factor in this period.
5. That said, The Lower Court file shows that the Applicant was arrested on 10th January 2020 and charged on 13th January 2020 and he was in remand custody throughout the trial. He was sentenced on 5th May 2021. This brings the time spent in remand to a period of 15 months and 26 days.
6. In light of the fact that the provisions of Section 333(2) is a mandatory provision, the court is obligated to apply it. For this reason, I find merit in the Application by the Applicant and I allow the same as



prayed. I therefore direct that the period of 15 months and 26 days is therefore to be computed into the term of 5 years' imprisonment that the applicant was sentenced to serve.

7. Right of Appeal 14 days.

READ DATED AND SIGNED AT ITEN ON 6TH FEBRUARY 2025

E. OMINDE

JUDGE

