



**Omosa v Republic (Miscellaneous Criminal Application  
E052 of 2024) [2025] KEHC 4510 (KLR) (20 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 4510 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAMIRA  
MISCELLANEOUS CRIMINAL APPLICATION E052 OF 2024**

**WA OKWANY, J  
MARCH 20, 2025**

**BETWEEN**

**JOSEPHAT MONARI OMOSA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. In a judgment delivered by this court, differently constituted, on 15<sup>th</sup> October 2020, the Applicant was convicted for the offence of Murder contrary to Section 203 as read with Section 204 of the Penal Code and sentenced to serve 15 years imprisonment.
2. He subsequently filed the Application dated 31<sup>st</sup> May 2024, which is the subject of this ruling. He seeks orders that the period that he spent in custody, while awaiting his trial, be considered when computing his prison term as provided under Section 333 (2) of the Criminal Procedure Code (CPC).
3. Mr. Chirchir, Learned Counsel for the State, did not oppose the Application. He however urged the court to peruse the trial court's proceedings with a view to determining if Section 333 (2) of the CPC was complied with during sentencing. The said Section stipulates as follows: -
  - (2) Subject to the provisions of section 38 of the Penal Code (Cap. 63) every sentence shall be deemed to commence from, and to include the whole of the day of, the date on which it was pronounced, except where otherwise provided in this Code.

Provided that where the person sentenced under subsection (1) has, prior to such sentence, been held in custody, the sentence shall take account of the period spent in custody.



4. I have perused the trial court's proceedings and ruling on sentence. I note that the trial court rendered itself, in part, as follows: -

“In the circumstances, a non-custodial sentence is not suitable and the accused is sentenced to serve a term of imprisonment for 15 years. Right of Appeal to the Court of Appeal explained.”

5. The above extract of the trial court's remarks reveals that the period that the Applicant spent in custody, while awaiting his trial, was not considered during sentencing. I note that the Applicant's trial commenced on 17<sup>th</sup> July 2019, when he first appeared in court, and was concluded on 16<sup>th</sup> November 2020 when he was sentenced.

6. I also note that the Applicant remained in custody throughout the entire period of his trial. I find that the Application dated 31<sup>st</sup> May 2024 is merited and I therefore allow it. I direct that the Applicant's sentence period be computed from the date that he first appeared in court, being 17<sup>th</sup> July 2019, so as to factor in the period that he stayed in custody while awaiting his trial.

7. It is so ordered.

**RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NYAMIRA VIA MICROSOFT TEAMS THIS 20<sup>TH</sup> DAY OF MARCH 2025.**

**W. A. OKWANY**

**JUDGE**

