



**Samwel & another v Republic (Miscellaneous Application  
E003 of 2025) [2025] KEHC 5921 (KLR) (4 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5921 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KILGORIS  
MISCELLANEOUS APPLICATION E003 OF 2025**

**CM KARIUKI, J**

**APRIL 4, 2025**

**BETWEEN**

**LUCAS MANYAKI SAMWEL ..... 1<sup>ST</sup> APPLICANT**

**ABED MARWA MWITI ..... 2<sup>ND</sup> APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicants were charged with of *trafficking narcotic drugs* c/s 4 (a) (ii) of *Act 4 of 2022*, LOK. They pleaded not guilty, and they were convicted after trial and sentenced to a fine of ksh 1million in default sentenced to serve 3 years imprisonment. This sentence was informed by the post-conviction report which court relied on to exact the penalty.
2. The applicants now approach court to be released at the point that they have served two (2) years of the term to go for no-custodial service for the 12 months remaining. They say they have reformed and ready to go and join their families. The state opposes robustly on the ground that the trial court was extremely lenient in that it fined them ksh 1 million instead of three (3) times the value of the drugs under the provisions they were charged under in addition life imprisonment.
3. They were said to have been trafficking the substances worth 5,196,000 and the Penalty for trafficking in narcotic drugs, etc. The law stipulates that, any person who traffics in any narcotic drug or psychotropic substance or any substance represented or held out by him to be a narcotic drug or psychotropic substance shall be guilty of an offence and liable—in respect of any narcotic drug or psychotropic substance to a fine of one million shillings or three times the market value of the narcotic drug or psychotropic substance, whichever is the greater, and, in addition, to imprisonment for life.
4. The applicants are lucky in that the ODPP did not appeal or seek review for the sentence and that in the instant matter they have not sought enhancement. The sentence meted out on the applicant was



very lenient and in fact contrary to the law. This court can also enhance Suo moto but iam not inclined to do so.

5. Thus, the court finds no merit in the application and therefore dismiss the same.

**DATED, SIGNED, AND DELIVERED AT KILGORIS THROUGH MICROSOFT TEAMS  
ONLINE APPLICATION THIS .....4<sup>TH</sup> .....DAY OF ...APRIL....., 2025.**

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**CHARLES KARIUKI**

**JUDGE**

