



**Aguko v Republic (Criminal Miscellaneous Application  
E075 of 2025) [2025] KEHC 9484 (KLR) (3 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9484 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL MISCELLANEOUS APPLICATION E075 OF 2025**

**A MABEYA, J**

**JULY 3, 2025**

**BETWEEN**

**FREDRICK OCHIENG AGUKO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. On 12/1/2018, Fredrick Ochieng Agukowas charged with the offence of gang defilement of a girl contrary to section 10 of the [Sexual Offences Act](#) No. 3 of 2006. It was alleged that on 21/12/2017 at Kibos area, he and another had intentionally penetrated the vagina of J.A a child aged 17 years.
2. After trial, he was found guilty convicted of the offence and sentenced to 15 years' imprisonment. By a Motion on Notice dated 9/5/2025, the applicant sought that the provisions of section 333(2) of the [Criminal Procedure Code](#) be taken into account in computing the period of his incarceration. The State did not oppose the application.
3. Section 333(2) of the [Criminal Procedure Code](#) provided that: -

“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 considered the entire record. I have also considered the proceedings of the trial Court, the judgment and sentence. The record shows that the applicant was granted bond of Kshs.100,000/- and released from custody. The same was however, suspended and he was placed in custody on 2/7/2018. He remained in custody until 31/1/2019 when he was sentenced.



5. In this regard, I find the application to be meritorious. I allow the same. I direct that the tabulation of the sentence of 15 years shall commence on 2/7/2018.

It is so ordered.

**DATED AND DELIVERED AT KISUMU THIS 3<sup>RD</sup> DAY OF JULY, 2025.**

**A. MABEYA, FCI Arb**

**JUDGE**

