



DKK v Republic (Miscellaneous Criminal Application E054 of 2022) [2024] KEHC 4949 (KLR) (9 May 2024) (Ruling)

Neutral citation: [2024] KEHC 4949 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
MISCELLANEOUS CRIMINAL APPLICATION E054 OF 2022**

JK SERGON, J

MAY 9, 2024

BETWEEN

DKK APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was convicted and sentenced to 7 years imprisonment for the offence of incest contrary to section 20 (1) of the Sexual Offences Act No. 3 of 2006. The particulars of the charge were that on diverse dates between March 2020 and December, 2020 at [Particulars Withheld] Village, Kebeneti Sub Location in Soin Sigowet Sub-County within Kericho County being a male person, caused his penis to penetrate the vagina of D.C a female person aged 17 years, who to his knowledge is his niece.
2. The Applicant has made the instant application under section 333 (2) of the Criminal Procedure Code for inclusion of the period he was in custody prior to his sentence of 7 years imprisonment.
3. The prosecution did not oppose the said Application.
4. I have perused the Original Record which shows that on the 18th day of January, 2021 the applicant was arraigned in court, pleaded not guilty and the court granted him bond of Kshs.100,000/= with one surety of similar amount.
5. Thereafter the applicant made several oral applications to have the bond terms reviewed downwards, however, the court disallowed those applications, deeming the initial bond terms to be sufficient.
6. There is no indication on the record that the applicant herein was ever released from custody.
7. During sentencing on 11th March, 2022, the trial court did not take into consideration the time spent in custody.



8. The applicant was first arraigned in court on 18th January, 2021 and sentenced on 11th March, 2022 to serve 7 years. It is apparent that the Applicant was held in custody for a period of one (1) year and two (2) months at the time of sentence.
9. I hereby direct that the period of 1 year 2 months be deducted from the jail term of 7 years. This means that the applicant will serve 5 years 10 months.
10. The sentence will start to run from 18th January, 2021.

Orders to issue accordingly.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 9TH DAY OF MAY, 2024

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J.K. SERGON

JUDGE

