



**Ombui v Republic (Miscellaneous Criminal Application
E015 of 2023) [2024] KEHC 4979 (KLR) (9 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 4979 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
MISCELLANEOUS CRIMINAL APPLICATION E015 OF 2023**

JK SERGON, J

MAY 9, 2024

BETWEEN

DOMINIC OMBUI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was convicted and sentenced to 3 years imprisonment for the offence of attempted arson contrary to section 333 (a) of the [Penal Code](#). The particulars of the offence were that on 8th August, 2020 at Kapseger Location in Londiani Sub County within Kericho County he attempted unlawfully to set fire to a building namely a dwelling house valued at Kshs. 100,000/= the property to Richard Kirui.
2. The Applicant has made the instant application under section 333 (2) of the [Criminal Procedure Code](#) seeking for inclusion of the period he was in custody prior to his sentence of 3 years imprisonment.
3. The prosecution did not oppose the said Application.
4. I have perused the Original Record which shows that on the 15th day of March, 2021 the applicant was arraigned in court upon which he pleaded not guilty and the court granted bond of Kshs.100,000/= with one surety of similar amount. There is no indication on the record that the applicant herein was released. During sentencing on 3rd December, 2021 the trial court did not take into consideration the time spent in custody.
5. The applicant was first arraigned in court on 15th March, 2021 and sentenced on the 3rd December, 2021. At the time of sentencing, the Applicant had been in custody for a period of 9 months which should be factored in the sentence when the 9 months is deducted the sentence would be 2 years 3 months.



6. I hereby direct that the period of 9 months be deducted from the jail term of 3 years. Therefore, the sentence of 2 years 3 months should run as from 15th March, 2021.

Orders to issue accordingly.

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

.....

J.K. SERGON

JUDGE

