



**Juma v Republic (Criminal Revision 268 of 2024)
[2024] KEHC 12375 (KLR) (16 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 12375 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 268 OF 2024
DR KAVEDZA, J
OCTOBER 16, 2024**

BETWEEN

BILLY SIMIYU JUMA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged and convicted for the offence of preparation to commit a felony contrary to section 308(1) of the [Penal Code](#). He was sentenced to serve 7 years imprisonment to run from August 15, 2023. He has now filed an application seeking revision of sentence.
2. He filed an affidavit in support of his motion. The arguments raised are that the trial court failed to consider the time he spent in remand custody during the computation of sentence.
3. I have considered the application, the affidavit in support and the applicable law. I have also considered the trial court record. The issue for consideration is whether the trial court considered the time the applicant spent in remand custody.
4. The proviso to section 333 (2) of the [Criminal Procedure Code](#) obligates the court to take into account the time already spent in custody. The duty to take in account the period an accused person had remained in custody in sentencing under the proviso to section 333(2) of the [Criminal Procedure Code](#) which is couched in mandatory terms was acknowledged by the Court of Appeal in [Abamad Abolfathi Mohammed & Another vs. Republic](#) [2018] eKLR and [Bethwel Wilson Kibor vs. Republic](#) [2009] eKLR and more recently in the High Court case of [Vincent Sila Jona & 87 others vs Kenya Prison Service & 2 others](#) [2021] eKLR.
5. From the record, the applicant was arrested on August 13, 2023 and the period was considered during sentencing.



6. I thus dismiss the application for lacking in merit.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 16TH OCTOBER 2024

D. KAVEDZA

JUDGE

