



REPUBLIC OF KENYA



KENYA LAW
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**Mwadime v Republic (Criminal Revision E003 of 2023)
[2023] KEHC 20632 (KLR) (18 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20632 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
CRIMINAL REVISION E003 OF 2023**

**GMA DULU, J
JULY 18, 2023**

BETWEEN

PATRICK MATANO MWADIME APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. Before me is an application for revision of sentence filed by the applicant herein on January 13, 2023, which sentence was pronounced by the trial court on November 29, 2022.
2. I note that the applicant was convicted on his own plea of guilty to possession of cannabis sativa (bhang) contrary to Section 4(a)(ii) of the *Narcotic Drugs and Psychotropic Substances Control Act*, and sentenced to serve 5 ½ years imprisonment.
3. As at the time he filed his application for revision of sentence, it is claimed that he had 3 years and 3 months of imprisonment to serve.
4. When the matter came up, the court ordered the filing of a Sentence Review report, which was filed on April 18, 2023 and signed by John Riungu a Probation Officer Voi, in which it is recommended that the applicant be placed on probation for the remainder of the prison sentence.
5. The Prosecuting Counsel Mr Sirima also in his submissions, suggests that the sentence imposed was excessive and should be reduced to 2 years imprisonment. Counsel relied on the case of *Caroline Ouma Rajabu = Versus = Republic (2018) eKLR* a decision of the Court of Appeal wherein an appellant's life sentence in a case of narcotic drugs was reduced to a discharge under Section 35(1) of the *Penal Code*.
6. Having considered the quantity of bhang found on the applicant herein said to be of the value of 7,700/=, that the applicant pleaded guilty, that he said he had school going children to care for as a divorced parent, that he was a first offender and said in the sentence review report to be of good conduct in the



community and in prison, I will review the sentence imposed herein under the provisions of Section 362 of the *Criminal Procedure Code* (Cap 75) as well as the *Probation of Offenders Act*.

7. I thus review the sentence meted by the trial court, and order that the applicant be and is hereby put on Probation Sentence for the remainder of his prison sentence, on condition that he will not commit any similar offence for the said probation period. He will be under the supervision of the Probation Officer Voi.

DATED, SIGNED AND DELIVERED THIS 18TH DAY OF JULY 2023 AT VOI IN OPEN COURT.

GEORGE DULU

JUDGE

In the presence of:-

Applicant

Mr. Okemwa for the State

Mr. Otolu court assistant

