

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITUI

PETITION CASE NO. 1 OF 2019

DMN.....PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

R U L I N G

1. The Applicant was charged with offence of Incest Contrary to **Section 20 (1)** of the **Sexual Offences Act NO. 3 of 2016**.
2. Particulars being that on **16/9/2014** at **9pm** in **Kitui County** intentionally caused his penis penetrate the vagina of **KN** who to his knowledge was his step sister. On same particulars he faced alternative Count of an offence of Committing an Indecent Act.
3. He was convicted on main count and was sentenced to serve **20 years imprisonment**.
4. He filed HCRA NO. 31/2017 Kitui High Court which after it was heard the appeal was dismissed and conviction was upheld but sentence was reduced to 15 years imprisonment.
5. Now he moves this court for remission.
6. The remission is not granted by the court but by the prisons relevant officers after assessing whether the Applicant has met the threshold and employing and considering the relevant factors for granting the remission.
7. This court therefore makes the following orders:

(1) The Prison authority or the relevant officer in the prison department to consider whether the accused/applicant qualifies for grant of remission and accordingly act under the Law.

Dated, signed and delivered at Kitui this 18th day of October 2019

C. KARIUKI

JUDGE