

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT GARISSA

CRIMINAL MISC. APPLICATION NO. 13 OF 2019

JOHN MUTIO MWANZI.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The applicant was charged with offence of robbery contrary to section 296(1) of the Penal Code. Particulars being that on 20/7/2011 at Konyu Sub-Location, Kitui County robbed Gibson Munywoki his land allotment letters and at the same time used personal violence. He was convicted and sentenced to serve 10 years imprisonment.
2. He appealed in the High Court at Garissa vide HCCRA No. 11 of 2012 which was dismissed after it was heard.
3. He now moves court for court to direct that the period he was in custody to be credited to his sentence and also he be awarded remission.
4. The State does not oppose application. The court finds that under section 333 of Criminal Procedure Code the applicant was entitled to be awarded benefit of the period he was in custody from 25/7/2011 when he appeared in court to date of conviction 11/12/2012.
5. As for remission, the applicant can only petition the prisons relevant authority to award him remission and if they decline challenge same decision in the High Court.
6. Thus court makes the following orders:-

- i. The sentence in Criminal Case No. 142 of 2011 will be computed from date of appearance in court for the first time 25/7/2011.*
- ii. The prisons authority will consider whether applicant has met the threshold for awarding the remission as provided by the law.*

DATED, DELIVERED AND SIGNED AT GARISSA THIS 7TH DAY OF NOVEMBER, 2019.

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C. KARIUKI

JUDGE