



**Nyongesa v Republic (Miscellaneous Criminal Application
E138 of 2025) [2025] KEHC 15727 (KLR) (27 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15727 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
MISCELLANEOUS CRIMINAL APPLICATION E138 OF 2025
MS SHARIFF, J
OCTOBER 27, 2025**

BETWEEN

LEVIS JUMA NYONGESA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant Levis Juma Nyongesa was charged, tried and convicted of the offence of defilement contrary to Section 8 (1) as read with 8 (3) of the [Sexual Offences Act](#) NO. 3 of 2006. He also face an alternative charge committing an indecent act contrary to Section 11 (1) of the [Sexual Offences Act](#) NO. 3 of 2006. The Applicant was convicted of the main charge and was sentenced to 15 years imprisonment.
2. The Applicant subsequent appeal in Bungoma HCCRA No. E015/2024 was dismissed whereafter he filed this application wherein, he craves that the pre-trial term be factored in during the computation of his custodial term.
3. I have perused the proceedings of the trial court and I have established that the Applicant took plea on 5.4.2022 and whereas he had been admitted to bond of Kshs 200,000 and one surety of a similar amount or cash bail of Kshs 100,000 he could not meet the bond terms wherefore he stood trial while in custody and was eventually convicted and was sentenced on 21.11.2023. He therefore spent 1 year 7 months and 16 days in custody prior to his conviction.
4. In light of the reasons aforesated, I do find that indeed the trial court did not factor in that pre-trial period during sentencing and given that that issue was not raised during his appeal, the appellate court did not consider it. This application is therefore well merited and I allow it. I thus order that pursuant to the provision of Section 333(2) of the Criminal Procedure Code, the pre-conviction period of 1 year 7 months and 16 days be deducted from the Applicant's sentence of 15 years.



5. This file is hereby marked as closed. It is hereby so ordered.

DELIVERED, SIGNED AND DATED AT BUNGOMA THIS 27TH DAY OF OCTOBER, 2025.

MWANAISHA S. SHARIFF

JUDGE

