

**IN THE COURT OF APPEAL  
AT NAKURU  
(CORAM: MATIVO, JA - IN CHAMBERS)  
CRIMINAL APPLICATION NO. NAK E065 OF  
2025 BETWEEN**

**SHIKOLE MAGELELA MADUHU.....APPLICANT**

**AND**

**REPUBLIC.....RESPONDENT**

*(Being an application for extension of time to file a notice of appeal against the judgment of the High Court of Kenya at Naivasha (G. Nzioka, J.) dated 12<sup>th</sup> June, 2023*

*in*

**CRA No. E020 of 2022).**

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**RULING**

1. The applicant, Shikole Magelela Maduhu was charged with the offence of trafficking in persons contrary to section 3 (1) (e) (5) of the Counter-Trafficking in Persons Act. Upon being convicted, he was sentenced to serve 30 years imprisonment. He appealed against both conviction and sentence in Naivasha CRA No. E020 of 2022. However, his appeal was dismissed in its entirety by *Nzioka, J* on 12<sup>th</sup> June 2023. Although aggrieved, he failed to lodge his notice of appeal within the statutory-stipulated period of 14 days. By an application dated 27<sup>th</sup> June 2025, the subject of this ruling, he prays for extension of time to appeal against the said decision contending that he instructed his family to retain the services of an advocate for

the purposes of appealing to this Court.

However, he has since learnt that his family never instructed an advocate and no appeal was filed. Therefore, he seeks an extension of time to file his appeal out of time.

2. In his written submissions dated 3<sup>rd</sup> November 2025, Mr. Omutelema Senior Assistant Director of Public Prosecution has amiably conceded to the application pointing to the lengthy sentence of 30 years.
3. Rule 4 of the Court of Appeal Rules gives the Court unfettered discretion to extend the time limited by these Rules, or by any decision of the Court or of a Superior Court for the doing of any act authorized or required by these Rules, whether before or after the doing of the act on such terms as it thinks just. The Supreme Court in **Nicholas Kiptoo Arap Korir Salat vs. IEBC and 7**

**Others [2015] eKLR** stated that:

***“It is incumbent upon the applicant to explain the reasons for delay in making the application for extension and whether there are any extenuating circumstances that can enable the Court to exercise its discretion in favour of the applicant.”***

4. I have considered the reasons advanced by the applicant as set out in the motion and the supporting affidavit. Although the application is conceded, the applicant must still satisfy the principles laid down in **Nicholas Kiptoo Arap Korir Salat vs.**

**IEBC and 7 Others** [supra]. I note that there has been a delay of

almost two years in bringing the present application. That notwithstanding, the reasons proffered by applicant for the delay are in my view plausible and bearing in mind that the sentence imposed and the need to exercise my discretion in a manner that does not close the doors of justice to the appellant, I'm inclined to exercise my discretion in his favour. Accordingly, the application dated 27<sup>th</sup> June 2025 is hereby allowed. The applicant shall file his appeal within 45 days from the date of this ruling.

Orders accordingly.

**Dated and delivered at Nakuru this 12<sup>th</sup> day of November 2025**

**J. MATIVO**

.....  
**.. JUDGE OF APPEAL**

*I certify that this is a true copy of the original.*

*Signed.*

**DEPUTY REGISTRAR.**