



REPUBLIC OF KENYA



KENYA LAW
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**Rop v Republic (Criminal Revision E331 of 2025)
[2025] KEHC 17338 (KLR) (26 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17338 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E331 OF 2025
RN NYAKUNDI, J
NOVEMBER 26, 2025**

BETWEEN

NAHASHON KIPTANUI ROP APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant was charged with obtaining money by false pretenses contrary to Section 313 of the Penal Code. The brief facts of the particulars are that on diverse dates between 19th day of December 2020 and 24th December 2020, at Water Gates Plaza in Ainabkoi Sub County within Uasin Gishu County jointly with others not before Court with intent to defraud obtained from Joseph Tuitoek Bullut Kshs 2,600,000/= by falsely pretending that you were in a position to sell him a piece of land parcel Number Eldoret Municipality Block 9/599 a fact you knew to be false.
2. In Count II, the applicant was charged with Making a document without authority contrary to Section 357 of the Penal Code. The particulars being that on unknown date at unknown place within republic of Kenya jointly with others not before court with intent to defraud and without lawful authority or excuse made a certificate of lease of land parcel Number Eldoret Municipality Block 9/599 purporting it to be genuine certificate issued by Land Registrar Uasin Gishu County.
3. Count III: Obtaining registration by false pretenses contrary to Section 320 of the Penal Code. Particulars are that on the 28th day of October 2015 at unknown place within Republic of Kenya jointly with others not before court willfully procure for yourself certificate of lease on land parcel Number Eldoret Municipality Block 9/599 falsely pretending that you are the right owner of the said land, a fact you knew to be false.
4. The Applicant was convicted and was sentenced to serve 1-year imprisonment in Count 1, 5 years in Count II and 8 months in Count II respectively on 7th February 2025.



5. The Applicant has approached this Court vide an application for review of sentence under Section 362 as read with Section 364 of the CPC.
6. As a consequence of that the Probation Officer filed a presentence review report which had the following components:

Introduction and sources of information

This sentence review report in respect of Dennis Nahashon Kiptanu Rop, who is currently serving a five-year custodial sentence for the offence of obtaining money by false pretence c/s 313 of the penal code. The report is informed by findings from social inquiry interviews and an assessment undertaken to evaluate his suitability for serving the remainder of his sentence under a noncustodial arrangement. Interviews were conducted with the inmate at Eldoret GK Prison, his family members. In addition, the lower court file was perused.

Current home and personal circumstances:

The inmate is a 52-year-old resident of Leseru Village in Kamagut, Turbo sub-county. He is the firstborn child of Joel Kemboi and Mary Jemaiyo and comes from a large family of nine siblings. He attended Meteitei Primary School but left in Class 7, after which he engaged in farming to help support his family. He is married to Pauline Jepchirchir, and together they have four school-going children. As the sole breadwinner, he carries the primary responsibility for the welfare of both his immediate family and some of his siblings. The inmate reports experiencing health challenges, particularly pressure-related complications, and affirms that he does not consume alcohol.

He comes from a humble background and was regarded as a responsible member of his community. His family, through his wife, appeals for the court to consider early release due to his family obligations and health concerns. The local administration has no objection to his early release.

Prison assessment, rehabilitation, and re-integration;

The inmate has been actively participating in farming activities within the prison, demonstrating discipline and a willingness to engage in constructive work. Prison records reflect positive behaviour and indicate that he is considered fit for release, showing clear signs of personal reform. The local administration expresses optimism that, upon release, he will channel his efforts into productive socio-economic activities to support his family. His family has also expressed readiness to participate in his continued rehabilitation and reintegration, reinforcing the supportive environment awaiting him in the community.

Offenders' attitude and impact of imprisonment

The inmate expresses genuine remorse for his actions and regrets the circumstances that led to his incarceration. He appeals for the opportunity to serve the remainder of his sentence within the community, citing his fragile health and significant family responsibilities. He affirms his commitment to lawful conduct and pledges not to re-offend. At 53 years of age, imprisonment has had a considerable impact on his personal and family life, reinforcing his resolve to change and rebuild positively.

Conclusion

The inmate, aged 53, is currently serving a five-year sentence for obtaining money by false presence, arising from the sale of a plot in Kapsoya estate in 2000. A dispute over the property later emerged, leading the



complainant to demand a refund in 2024. Although the inmate lacked the financial capacity to repay the amount, he demonstrated willingness to pursue an amicable settlement, but the complainant declined further engagement. He has served nine months of his custodial term and is scheduled for release on 07/06/2028. He expresses remorse and appealed for leniency. His decision to enter into a plea bargain, resulting in the current sentence, reflects his acceptance of responsibility. In light of his attitude, age, and demonstrated commitment to reform, he may be considered suitable for a non-custodial sentence.

Recommendations:

My Lord, the inmate is remorseful, and the home environment is favourable for his rehabilitation. His sentence may be reviewed and can serve Probation for a period of 2 years 7 months this subject to this Honourable Court's discretion.

Decision

7. In determining whether to impose a custodial or non-custodial sentence, the court is required to take into account the following factors: -
 - a) Gravity of the offence: - sentence of imprisonment should be avoided for misdemeanour.
 - b) Criminal history of the offender. Taking into account the seriousness of the offences, first offenders should be considered for non-custodial sentence.
 - c) Character of the offender: - non-custodial sentence are best suited for offenders who are already remorseful and receptive to rehabilitative measures.
 - d) Protection of the community: - where the offender is likely to pose a threat to the community.
 - e) Offender's responsibility to third parties: - where there are people depending on the offender.
8. Having carefully reviewed the Sentence Review Report and the circumstances of this case, I am satisfied that the Applicant meets the criteria for a community-based sentence. He has already served six (6) months in custody, during which he has demonstrated good conduct and actively participated in farming activities within the prison, showing discipline and willingness to engage in constructive work. Prison records reflect positive behaviour and indicate that he is considered fit for release, showing clear signs of personal reform. The report establishes that the Applicant is a 53-year-old resident of Leseru Village in Kamagut, Turbo Sub-County. He is the firstborn child of Joel Kemboi and Mary Jemaiyo and comes from a large family of nine siblings. He is married to Pauline Jepchirchir, and together they have four school-going children who depend entirely on him as the sole breadwinner. He carries the primary responsibility for the welfare of both his immediate family and some of his siblings. Although he lacked the financial capacity to repay, he demonstrated willingness to pursue an amicable settlement, but the complainant declined. His decision to enter into a plea bargain reflects his acceptance of responsibility. The Applicant expresses genuine remorse for his actions and has affirmed his commitment to lawful conduct. The local administration has no objection to his early release and expresses optimism that he will channel his efforts into productive socio-economic activities. His family has expressed readiness to participate in his continued rehabilitation and reintegration, reinforcing the supportive environment awaiting him in the community.
9. Accordingly, I find that the remaining period of two (2) years and seven (7) months is appropriate and shall be served under probation supervision. The Applicant is hereby placed on Probation Orders for the said period, during which he shall report regularly to the Probation Officer assigned to supervise him in Turbo Sub-County. The Applicant shall comply with all conditions set by the probation officer, including counseling and guidance sessions aimed at his rehabilitation and reintegration into



the community. The supervising probation officer shall submit quarterly reports to this Court detailing the Applicant's compliance and progress. Any breach of the conditions of this probation order shall result in immediate cancellation, and the Applicant shall be remanded to serve the remainder of his sentence in custody.

10. It is so ordered.

SIGNED, DATE AND DELIVERED AT NOVEMBER THIS 26TH DAY OF NOVEMBER, 2025.

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R. NYAKUNDI
JUDG

