

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL REVISION NO E003 OF 2025

CHARLES GITONGA

.....APPLICANT

VERSUS

REPUBLIC.....

RESPONDENT

R U L I N G

1. The Applicant, Charles Gitonga, moved this court vide an undated ‘sentence review’ application seeking that the period he spent in remand be taken into account in the computation of his sentence in line with **Section 333(2)** of the **Criminal Procedure Code**.

2. I have considered the Applicant’s application. More specifically, I have perused the record of the lower court where I find that the trial magistrate was silent on the issue

of the period in which the Applicant was in custody during the pendency of the trial.

3. The record shows that plea in the matter was taken on 26.2 25. The Applicant did not access bail.

4. The Respondent has raised no objection noting the contents of the court record.

5. Section 333(2) of the Criminal Procedure Code is explicit on the matter. The trial court is obliged to take into account the period an accused person has spent in custody during the pendency of the trial. In this matter therefore, there is discernable irregularity that this court has power to correct under **Section 362 and 364 of the Criminal Procedure Code.**

6. The application therefore has merit and is allowed. The sentence by the trial court is varied to the extent that the sentence shall run **from 26th February 2025.**

Dated signed and delivered virtually this 27th day of February 2026.

A.K. NDUNG’U

JUDGE