



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
HCCRREV. E024 OF 2026

CHAUNDE DAN EPHILET

APPLICANT

VERSUS

REPUBLIC

RESPONDENT

RULING

1. The Applicant herein one ELIPHELET DAN CHAUNDE was charged in the Lower Court with three counts of causing death by dangerous driving, contrary to **Section 46 of the Traffic Act Cap. 403 Laws of Kenya.**

2. He as well faced a Fourth Count of reckless driving contrary to **Section 47 of the Traffic Act Cap. 403 Laws of Kenya.**

3. Upon trial he was found guilty on the four Counts and sentenced on each of the first three counts to 18 months Imprisonment and on the Fourth Count to 6 months imprisonment; sentences to run concurrently.
4. By way of a Notice of Motion dated 6th March, 2026 he has approached this Court under Sections 362 and 364 of the Criminal Procedure Code, praying for a review of the sentence in favour of fine alternative.
5. In support of the application it's averred that the Applicant is a Catholic Priest and after the accident he was gravely affected psychologically and had to seek psychosocial support. He's a first offender and the custodial sentence is gradually causing him depression. He's deeply sorry for the accident and the victims family have been compensated by the Insurance of the Church where the Applicant serves.

6. The Respondents are not opposed to the application.

7. Sentencing is largely at the discretion of the trial Court.

However, that discretion is not absolute as it must be:-

1) Exercised judiciously (not arbitrarily).

2) Based on relevant factors (aggravating and mitigating circumstances).

3) Consistent with the Law and proportionality principle as carried under Part 1, Paragraph 1.2.1 of the Judiciary of Kenya Sentencing Policy Guidelines.

8. Proportionality sets the range and appropriateness of punishment. Least severe Sentence/Minimum intervention, pushes the Court towards the Lowest appropriate sentence within that range. This is why the sentencing policy guidelines encourage non-custodial sentence where appropriate; discourage unnecessary imprisonment; and require justification where a harsher sentence is imposed.

9. While the Court do appreciate that the Applicant was convicted on Four serious Traffic Offences, where three lives were lost, given his circumstances, there was no justification for denial of fine option.

10. In view of the foregoing I do find the application merited.

11. Considering the time already spent in custody, on each of the first three counts, the Applicant will have an option of paying a fine of 70,000/-; and on the forth Count a fine of 20,000/-. Fine sentence is consecutive in that the Applicant to secure release need pay 230,000/- in total.

12. File closed.

DATED AND DELIVERED AT MERU THIS 17TH DAY OF APRIL, 2026.

S.M. GITHINJI -JUDGE

17/4/2006

Mr. Gitonga Muthee for the Applicant

Ms. Adhi for the Respondent
Applicant present in Meru G. K. Prison.