



REPUBLIC OF KENYA



KENYA LAW
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**Sudi v Republic (Criminal Revision E024 of 2026)
[2026] KEHC 6396 (KLR) (13 May 2026) (Ruling)**

Neutral citation: [2026] KEHC 6396 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION E024 OF 2026**

DR KAVEDZA, J

MAY 13, 2026

BETWEEN

OSMAN SUDI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant was charged with the offence of indecent act with a child contrary to section 11(1) of the *Sexual Offences Act*, No. 3 of 2006. After a full trial, he was sentenced to serve ten (10) years imprisonment.
2. He has filed the present undated application seeking sentence review. The grounds raised in support of the application are that the trial court to consider the time spent in remand custody during the computation of his sentence.
3. I have considered the application, the affidavit in support and the applicable law. I have also considered the trial court record. The issue for consideration is whether the trial court considered the time the applicant spent in remand custody.
4. The proviso to section 333 (2) of the Criminal Procedure Code obligates the court to take into account the time already spent in custody. The duty to take in account the period an accused person had remained in custody in sentencing under the proviso to section 333(2) of the Criminal Procedure Code which is couched in mandatory terms was acknowledged by the Court of Appeal in *Ahamad Abolfathi Mohammed & Another vs. Republic* [2018] eKLR and *Bethwel Wilson Kibor vs. Republic* [2009] eKLR and more recently in the High Court case of *Vincent Sila Jona & 87 others vs Kenya Prison Service & 2 others* [2021] eKLR.



5. It is therefore clear that it is mandatory that the period which an accused has been held in custody prior to being sentenced be taken into account in meting out the sentence where it is not hindered by other provisions of the law.
6. From the record, the applicant was arrested on 24th July 2021, and was never released on bail/bond and was convicted on 7th December 2023. He therefore spent two (2) years, four (4) months and thirteen (13) days in remand custody.
7. From the record, the period was not factored in during the computation of his sentence by the trial court.
8. In the premises, the application is allowed. The sentence of ten (10) years imposed by the trial court shall run from 24th July 2021, the date of his arrest pursuant to section 333(2) of the Criminal Procedure Code, Cap 75 Laws of Kenya.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 13TH DAY OF MAY 2026

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D. KAVEDZA

JUDGE

In the presence of:

Applicant Present

Mutuma for the Respondent

Karimi Court Assistant.

