



REPUBLIC OF KENYA



KENYA LAW
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**Sarite v Republic (Criminal Application E111 of 2024)
[2025] KECA 383 (KLR) (28 February 2025) (Ruling)**

Neutral citation: [2025] KECA 383 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CRIMINAL APPLICATION E111 OF 2024
MA WARSAME, JA
FEBRUARY 28, 2025**

BETWEEN

MORE OLE SARITE APPLICANT

AND

REPUBLIC RESPONDENT

(An application for extension of time to file an appeal against the ruling of the High Court at Narok (Gikonyo, J.) dated 12th February, 2024 in HCCR)

RULING

1. The applicant, was arrested on 2nd September 2013 to answer a charge of robbery with violence contrary to Section 296(2) of the *Penal Code*. He was convicted on 8th day of August 2014 and sentenced to life imprisonment.
2. Aggrieved, he appealed against the conviction and sentence.
From the applicant's affidavit, the High court ordered a retrial and the matter was sent back to the lower court on 6th November 2015. The matter was concluded on 4th August 2017 wherein the applicant was again found guilty and sentenced to life imprisonment.
3. He appealed yet again and the case was remitted back to the High Court for resentencing on 1st March 2019. The applicant's sentence was consequently reduced to 20 years.
4. Dissatisfied, the applicant filed the application subject of the intended appeal, seeking to have the time he spent in custody deducted from his 20 year sentence (i.e. from the date of his arrest on 2nd September 2013 to the date of his second conviction on 4th August 2017). Gikonyo, J. dismissed that application in a ruling dated 12th February 2024 (Which the court is not privy to) and the applicant has filed the instant application seeking to file an appeal out of time against the impugned ruling.



5. The respondent is opposed to the application while the applicant has not filed any submission in support of his application.
6. This court has settled on the matters which should be taken into consideration when the court was called upon to exercise its discretion. Those matters, as was stated in the case of *Leo Sila Mutiso vs Helen Wangari*, (NRB) Civil Application No. 251 of 1997, include:

“ ... first, the length of the delay; secondly, the reason for the delay; thirdly (possibly), the chances of the appeal succeeding if the application is granted; and fourthly, the degree of prejudice to the respondent if the application is granted.”
7. I have perused the application and the affidavit in support of the application and not a single reason has been given for the delay of about four and a half months. I therefore decline to exercise my discretion and dismiss the application.

DATED AND DELIVERED AT NAKURU THIS 28TH DAY OF FEBRUARY, 2025.

M. WARSAME

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

