



**Kaingu v Republic (Miscellaneous Criminal Application
E148 of 2022) [2024] KEHC 523 (KLR) (25 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 523 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
MISCELLANEOUS CRIMINAL APPLICATION E148 OF 2022**

**A. ONG'INJO, J
JANUARY 25, 2024**

BETWEEN

SALIM KAINGU APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant Salim Kaingu was charged in Kaloleni Principal Magistrate's Court Criminal Case No. 34 of 2018 with the offence of defilement contrary to Section 8(1) as read with section 8(4) of the *Sexual Offences Act* No. 3 of 2006, The applicant was found guilty and sentenced to serve 15 years imprisonment.
2. The applicant filed an appeal in Mombasa High Court Criminal Appeal No. 36 of 2019 where his sentence was reduced to 10 years and according to the Sentence Review Report, the sentence is to end on 11th June 2025.
3. The applicant in the application herein prays that this court allows him to serve the remainder of the sentence on probation pursuant to Section 4(2) of the *Probation of Offenders Act* and decisions in the cases of *Samson Madzao Mwamunga v Republic*, Mombasa High Court Criminal Appeal No. 229 of 2017 and *J.N. v Republic* (2015) eKLR where similar prayers were merited.
4. The applicant cited his mitigating factors to include rehabilitative programs within prison, that he has undergone a course in tailoring where he has sat for a grade 3 test which course will assist him in earning a living and that there is a favourable progressive report by the prison administration.
5. In consideration of the Sentence Review Report, the remainder of the sentence to be served under supervision of probation officer.



**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS, This
25th day of January 2024**

HON. LADY JUSTICE A. ONG'INJO

JUDGE

In the presence of: -

Ogwel- Court Assistant

Mr. Ngiri for Respondent

Applicant present in person

HON. LADY JUSTICE A. ONG'INJO

JUDGE

