



**Mwawanga v Republic (Miscellaneous Criminal Application
E076 of 2023) [2024] KEHC 576 (KLR) (25 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 576 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
MISCELLANEOUS CRIMINAL APPLICATION E076 OF 2023**

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

BETWEEN

JUMA RASHID MWAWANGA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The Applicant Juma Rashid Mwawanga was charged in Kwale Magistrae Court CR. Case No. 557 of 2016 with the offence of Trafficking in Narcotic Drugs contrary to section 4(a) of the Act No. 4 of 1994. He was convicted & sentenced to serve 20 years jail term in counts 1 & 2 to run concurrently and additionally to pay a fine of Kshs.9,000,000/= in Count 1 and Kshs.1,160,000/= in Count II in default to serve one year imprisonment. The custodial sentences were ordered to run concurrently.
2. The applicant preferred appeal against conviction and sentence in Mombasa High Court Criminal Appeal No. 47 of 2019 where conviction was upheld but sentence of reviewed to 7 years with effect from date of conviction i.e. 4/4/2019. In Count II, the Judge ordered the applicant to pay fine of Kshs.1,160,000/= in Count 2 but didn't indicate default sentence.
3. By an application filed on May 22, 2023, the applicant sought for review of his sentence to non-custodial sentence as he remained with one year & 4months to complete his sentence. This court called for a Sentence Review Report and the same was filed on November 12, 2023. The report is favourable for early release of applicant from jail.
4. This court finds that the applicant having been in custody since April 4, 2019, it is inexpedient to continue having him in custody. The term served is sufficient. He is therefore discharged to be repatriated to his home country in Tanzania by the prisons authorities.

**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: -

Etropia - Court Assistant

Mr. Ngiri for the Respondent

Applicant present in person

HON. LADY JUSTICE A. ONG'INJO

JUDGE

