



**Chandi v Republic (Criminal Revision E878 of 2023)
[2024] KEHC 2997 (KLR) (Crim) (15 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 2997 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL REVISION E878 OF 2023
K KIMONDO, J
MARCH 15, 2024**

BETWEEN

ELISON MUTUNGATI SHEIKH CHANDI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant pleaded guilty to the charge of obtaining money by false pretenses contrary to section 313 of the *Penal Code*. He was sentenced to imprisonment for 3 years with an option for a fine of Kshs 500,000.
2. The revision seeks grant of credit for the period spent in remand custody. The applicant also avers that his health has deteriorated in prison.
3. I called for the records of the subordinate court. Being a revision, and by dint of section 365 of the *Criminal Procedure Code*, no party has a right to be heard either personally or by an advocate before the High Court when exercising its powers of revision.
4. Section 333 (2) of the Code, obligates the sentencing court to take into account the period spent in remand custody. In *Abamad Abolfathi Mohammed & another v Republic*, Court of Appeal at Nairobi, Criminal Appeal 135 of 2016 [2018] eKLR, the learned judges of the Court of Appeal called for a “more meaningful” application of that provision of the law.
5. I am now satisfied of the following set of facts: The accused was arrested on 30th April 2020 and took plea on 4th May 2020. He was later released on bail. The record shows that the surety was approved on 15th May 2020. Prior to that, he had been granted anticipatory bail by the High Court.



6. On 2nd October 2023, he changed his plea to guilty. The final plea was recorded on 9th October 2023 when he was also sentenced. The trial court did not credit him with any time spent in remand custody.
7. For all the above reasons and guided by section 333 (2) of the *Criminal Procedure Code*, I order that any period spent in remand custody from his arrest on 30th April 2020 to the date of his sentence on 9th October 2023 (but excluding the days when he was out on bond) shall be deducted from the sentence. The applicant shall be immediately notified of this order.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 15TH DAY OF MARCH 2024.

KANYI KIMONDO

JUDGE

Ruling read in chambers in the presence of-

Mr. Edwin Ombuna, Court Assistant.

