

IN THE SUPREME COURT OF SEYCHELLES

THE REPUBLIC

VS.

TERENCE ALPHONSE

Criminal Side No. 47 of 2006

Mr. Govinden for the Republic

Mr. Ally for the Accused

REASONS

At the last sitting of Monday 9th October, 2006 the accused was informed of the decision of the court regarding his bail application that it had been refused and I now proceed to give the reasons for doing so.

The accused is charged with, among other offences, the offence of trafficking in a controlled drug contrary to Section 5 of the Penal Code read with Section 14 and Section 26(1) (a) of the Misuse of Drugs Act 1990 and amended by Act 14 of 1999 and punishable under Section 29 and the Second Schedule referred thereto in the Misuse of Drugs Act 1990 as amended by Act 14 of 1994. Earlier on in my ruling of Monday 11th September, 2006 the accused was informed that this was a serious offence (as clearly defined in the case of Republic vs. Gerard Kate Criminal Side No. 50 of 2004). The Court adopts the same reasons of that ruling. The term 'seriousness of offence' was judicially interpreted as follows:-

“The seriousness of an offence does not mean only offences that carry hefty fines and/or long term imprisonment; or minimum mandatory sentence or fines; but must also be considered in a broader perspective, including the prevalence of the offence; the prevailing tendency of such crime; the necessity to root out or curb the vice; the negative impact of the offence on the virtual complainant and the view taken by society of such offence; whether the offence is the act of a sole individual or a possible conspiracy involving other parties who may be directly or indirectly, openly or secretly involved; the circumstances and manner that the alleged offence took place; among other considerations.

In the case of Republic vs. Cliff Emmanuel & Richard Freminot Criminal Side No. 85 of 2003 the Court cited the authority of Republic vs. Slough Justices, Exparte Duncan Criminal Appeal R. 384 wherein it was held that a court should not hear arguments as to fact or law which it has previously heard unless there has been such a change of circumstances as might have affected the earlier decision. In the present case there has been no change of circumstances to warrant the release to the accused on bail. It was for those reasons that the bail application was rejected and the accused remanded.

D. GASWAGA

JUDGE

Dated this 16th day of October, 2006.