

IN THE SUPREME COURT OF SEYCHELLES

THE REPUBLIC

VS.

VALLIPURAM MURALI (Accused)

Criminal Side No. 36 of 2007

Mr. Camille for the Republic

Mr. Bonte, Mrs. Amesbury and Mr. Hoareau for the Accused

RULING

Gaswaga, J

This is an application where the court has been invited to vary the bail terms it set on the 26/03/2008. In particular, the defence counsel are arguing that the sum of USD 50,000/- be reduced to USD 10,000/- or 15,000/- which is affordable by the accused who has lately gone through a lot of financial problems. They further argue that this is a financial crime where the accused should be enlarged on bail as compared to serious cases of murder and drug trafficking. The prosecution is objecting to the application.

It will be recalled that the accused has been charged with two other related cases wherein he has been enlarged on bail but not yet complied with the conditions set. Originally in this case the defence applied for bail promising to deposit USD 260,000/- . This was on the 16/7/2007 and the application was allowed. That figure has with time and subsequent such applications for variations been reduced and now stands at USD 50,000/-. The sums imposed in **CR. 37 of 2007** and **CR 30 of**

2007 too have been substantially reduced but in all cases the accused still remains in custody, allegedly unable to pay the said monies. A number of factors have contributed to this position. See my reasoning in ruling of 19/11/2007 **Rep Vs Murali Cr Side No. 30 of 2007.**

Where a court of law is minded to release an accused on bail should do so either unconditionally or on terms and conditions that are reasonable and can be afforded and satisfied by the applicant. Unaffordable bail terms would defeat the very purpose of enjoyment of the right to bail intended by the constitution. But caution should be taken to ensure that the duties accompanying this right are not breached or ignored. I note that the value of subject matter herein remains high (over USD 180,000/-) while the accused has stayed on remand for quite some time, since July 2007. The case is part- heard. The court has not forgotten the prison reports alleging the accused's involvement in numerous attempts to escape from prison. He has also at one point in time developed tendencies of interfering with witnesses in this and or other cases referred to above. The question now is: while on bail will the imposition of stringent conditions confine him, as a foreign national, within the jurisdiction of the court and ensure his attendance of the trial as and when required? I think the court must endeavor to strike a balance here. It would be injustice to the general public and especially the complainant herein if due to weak conditions set the accused jumps bail and never returns for his trial.

In light of the foregoing, this court will reluctantly once again reduce the cash bail imposed earlier on to a sum of Rs.30, 000/- However, the other bail conditions still stand but with the following amendments:

1. The accused should not leave the jurisdiction of Seychelles without an order of this Court.

2. The accused should not interfere with the witnesses or the course of justice in this case in any way or get involved in any criminal activity.
3. The accused should surrender his passport or any travel documents in his possession to the Registrar of the Supreme Court before the release order is signed.
4. The accused should report to the nearest police station being the Glacis Police Station every day at 9:00am.
5. The accused should deposit a cash bail of USD 30, 000/-. He should also provide two substantial sureties who are citizens of Seychelles to be approved by the Court. Each will sign a bond of Sr. 200, 000/- (NOT CASH).
6. If any of these conditions is breached this order for bail will be revoked and the accused will be remanded in custody unless a plausible explanation is offered.

The Registrar is to convey this order to the Director of Immigration and the Commissioner of Police.

D. GASWAGA

JUDGE

Dated this 19th day of February, 2009.