

IN THE SUPREME COURT OF SEYCHELLES

THE REPUBLIC

VERSUS
GUL WALI (Accused)**Criminal Side No 58 of 2007**

Mr. Durup standing in for the Attorney General, Mr. Govinden for the Republic
Mrs. Amesbury for the Accused

SENTENCE**Gaswaga, J**

Mr. Gul Wali has been convicted of the offences of (i) importation of a controlled drug contrary to Section 3 as read with Section 26(1) (a) of the Misuse of Drugs Act of 1990 as amended by Act 14 of 1994 and punishable under Section 29 and the second schedule referred thereto in the Misuse of Drugs Act as amended by Act 14 of 1994. (ii) Trafficking of a controlled drug contrary to section 5 as read with sections 14(d) and 26(1)(a) of the Misuse of Drugs Act (Cap 133) and punishable under section 29 of the Second Schedule referred thereto in the said Act. The particulars alleged that the accused on the 2nd of October, 2007 imported into Seychelles four (4) kilograms and 14 grammes of heroin (diamorphine). On his arrival at the Seychelles International Airport Mr. Gul Wali had been searched and found with the said illicit drugs which gave rise to the above charges and consequent arraignment. He has now tendered a guilty plea for each of the said offences thereby saving the precious resources of the court especially its time and will accordingly be credited for that. **See Cliff Emmanuel vs. Rep SCA No. 7 of 2006.**

There is no doubt that the offences herein are serious and rampant and have caused a public outcry in our Society. The plain and apparent object of the relevant laws is to prevent the danger to public health; especially with regard to that of the young and therefore future generation, and to guard Society against the social evils which an uncontrolled use and importation of or traffic in illegal drugs is bound to generate. A minimum sentence of 10 years is prescribed while the maximum is set at 30 years.

The Court has also taken into account several recent sentences in similar or related cases passed by the Supreme Court and subsequently the Court of Appeal. In the recent case of **R v Nitin Redekar Criminal Side No. 21 of 2007** who was arrested while importing close to 2 kgs of cannabis (class B drug) the Supreme Court imposed a 13 year sentence. The same Court meted out a sentence of 14 years to the accused, **(In R v. Amigbade & Ors Cr. No 73 of 2007)** a Nigerian national arrested at the Seychelles International Airport while importing a kilogram of heroin (Class A drug). A jail term of 14 years was handed down to **Randy Florine Criminal Case No. 26 of 2008,** a Seychellois arrested with 310.2 gms of cannabis resin (Class B). For **Terence Alphonse (Criminal Case No. 47 of 2006)** who was trafficking in 4.9 grams of heroin (diamorphine) and was also in possession of a hand rolled cigarette containing cannabis resin jails term of 8 and 10 years were handed down. The same Court sentenced **Alcide Bouchereau (Criminal No. 61 of 2007)** to 8 years imprisonment when he was convicted for trafficking in 153.3 grams of cannabis and another 8 years for cultivation of 85 genus plants of cannabis. The sentences were to run concurrently. **All these cases went through a full blown trial.**

Mrs. Amesbury has moved the Court in mitigation to impose a minimum sentence (thus 10 years) on each of the counts because the accused has saved the state (Republic) of difficulties always encountered during prosecution. It was also stated that the accused is a young man aged 28 years with a wife and child who are suffering in Pakistan as a result of

his incarceration. He has no parents and needs to leave jail early to go and restart a new life. He is a first offender and remorseful. On the other hand the Court notes that the law dictates that he should be punished for the part played by himself in this transaction although it is alleged the drugs were not his.

As indeed emphasized in mitigation, the accused, as a poor young man was a mere courier who was used and enticed by a small reward for his services. He has not benefitted from the whole transaction at all. The drugs were impounded and he is now in prison. Once again, having considered all the mitigation herein especially the guilty plea tendered, I feel the most suitable sentence should be twelve (12) years in prison on EACH of the two counts. The period spent on remand should be counted as part of this sentence.

The sentences are to run concurrently.

I accordingly sentence you.

Right of appeal explained.

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D. GASWAGA

JUDGE

Dated this 9th day of March, 2009.