

IN THE SUPREME COURT OF SEYCHELLES

THE REPUBLIC

VS.

1. BRIGITTE MANCIENNE

MARC WOODCOCK

Criminal Side No. 90 of 2008

Mr. Durup for the Republic

Mr. Gabriel with Mr. Frank Elizabeth for the Accused

ORDER

M. Burhan J

When this case was mentioned on the 29th of January 2009, learned counsel for the 2nd accused made an application for bail on behalf of the accused. Learned counsel brought to the attention of this court, that the 6 year old child of the accused had to undergo intensive surgery as she had a Kidney tumour and it was essential that her father the 2nd accused be present at her side to comfort her.

He also brought to the attention of this court that the wife of the 2nd accused was unemployed and that it was important that the father be released on bail, as he was the sole breadwinner of the family and money was necessary for the operation and incidental expenses.

Learned counsel also informed court that, the 1st accused in this case had already been released on bail and as the charge against both accused was the same, he moved court that the 2nd accused also be released on the same bail conditions.

In support of his application, learned counsel tendered a report from Dr Ricardo Docampo which confirmed the fact the child of the accused was suffering from a kidney tumor and as such tumors were aggressive, the operation had to be performed as soon as possible.

Learned counsel for the prosecution objected to the granting of bail due to the seriousness of the charge but had no objections to the father being permitted by court to visit the child during the operation while in remand custody.

Having considered the submissions of both counsel it is an undisputed fact that the child of the 2nd accused is having a tumor in her left kidney and is in urgent need of surgery. All expenses incidental or otherwise will have to be borne by her parents. Her mother is unemployed, a fact not contested by the prosecution counsel. In such a situation it is the opinion of this court, that the father's continued presence by the side of his child to support her both monetarily and psychologically is an absolute necessity.

The charge of conspiracy against the accused and the particulars of the offence, do not show that any quantity of controlled drug was ever actually recovered in the possession of either of the accused. In fact the 1st accused in this case has been released on bail by *KarunakaranJ* who held;

" I believe this case falls as an exception to the other cases in which the court has constantly held the seriousness of the offence on its own to constitute a valid ground to remand the accused".

The charges against both accused are the same, and already the 1st Accused has been release on bail. There are no extenuating circumstances to continue to remand the 2nd accused and furthermore considering the medical condition of the child of the 2nd accused, this court is inclined to grant the application of learned counsel for the 2nd accused. The 2nd accused is hereby released on bail on the following conditions.

1. The 2nd accused enter into a bond in a sum of Rs 20,000/- to ensure his future appearance in court, with one surety in a like sum.
2. The 2nd accused should surrender his passport to court with immediate effect.
3. The 2nd accused should not interfere with any of the witnesses for the

prosecution in this case.

4. Breach of any of the aforementioned conditions will result in the 2nd accused being remanded until conclusion of this case.

The Immigration authorities to be informed, that the accused is not permitted to leave the territory of Seychelles until this case is concluded.

M.N. BURHAN

JUDGE

Dated this 13th day of February, 2009.