

**IN THE SUPREME COURT OF SEYCHELLES**

**Criminal Side: CO 84/2013**

**[2014] SCSC**

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**THE REPUBLIC**

versus

**RONNY JEANNIE**

Accused

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Heard: 1<sup>st</sup> October 2014

Counsel: Mr. Ananth, Assistant Principal State Counsel for the Republic  
Mrs. Amesbury Attorney at Law for the accused

Delivered: 16 October 2014

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**ORDER**

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**Burhan J**

[1] I have considered the application for bail made by learned counsel for the accused and the objections of learned counsel for the prosecution.

[2] The main grounds urged by learned counsel for the accused are that-

- i. there is a fault in Count 1 of the charge sheet as there is no offence creating section.

- ii. the seriousness of the offence is not on its own a sufficient factor to remand the accused.
- iii. the fact that the accused is ill.
- iv. the other grounds urged by learned counsel for the prosecution in respect of his remand apply to suspects only.

[3] Count 1 reads as follows;

**Count 1**

*Trafficking in a Controlled drug contrary to Section 5 read with 14 (c) and Section 26 (1) (a) of the Misuse of Drugs Act CAP 133 punishable under Section 29 (1) of the Misuse of Drugs Act CAP 133 and the Second Schedule referred thereto in the said Act.*

*The particulars of offence are that Ronny Jeannie of Pointe Larue, Mahe, on the 22<sup>nd</sup> December 2013 at Nageon Estate, Mahe was found in possession of a Controlled drug namely 9.6 grams of Heroin Mixture which contains 4.7 grams of (Diamorphine) Heroin which gives rise to the rebuttable presumption of having possessed the said controlled drug for the purpose of trafficking.*

[4] It is to be noted that the statement of offence in Count 1 not only refers to section 5 read with section 14 (c) and section 26 (1) (a) of the Misuse of Drugs Act but also states punishable under section 29 (1) of the Misuse of Drugs Act and the Second Schedule referred thereto.

[5] Section 29 (1) reads as follows;

*The Second Schedule shall have effect, in accordance with subsections (2) and (3), with respect to the way in which offences under this Act are punishable.*

[6] Section 29 (2) clearly mentions the fact that, Column 1 of the Second Schedule shows the provisions of this Act creating the offence.

[7] Therefore learned counsel for the accused contention that there is no offence creating section in the charge is erroneous and bears no merit.

- [8] In regard to the fact that the seriousness of the offence is not on its own a ground to remand the accused, in this instant case there are other charges such as Wilfully obstructing police officers in the execution of their duties and Escape from lawful custody. In the light of the charges framed against the accused and the contents of the affidavit filed by the prosecution dated 26<sup>th</sup> December 2013. I am of the view, there is a strong possibility and substantial grounds exist to believe that the accused would abscond and obstruct the course of justice if released on bail.
- [9] Further the accused has been charged with Trafficking in a Class A drug namely Heroin which carries a minimum mandatory term of imprisonment of 20 years which in itself speaks of the seriousness of the charge. The deleterious and dangerous nature of this controlled drug on society especially the younger generation is an additional aggravating factor.
- [10] Learned counsel has also referred to the fact that the accused is ill. One medical certificate filed in record refers to a nose bleed which Dr. Foktave states has been self induced by some manipulation of the accused and the other medical certificate dated 9<sup>th</sup> July 2014 issued by Dr Fred Arrisol the prison doctor also states the injury has been inflicted by the inmate himself.
- [11] It is apparent that a reading of Article 18 (7) of the Constitution of the Republic of Seychelles clearly indicates that the said Article applies to *a person who is produced before court* which includes persons who are charged with an offence. A reading of the Seychelles Court of Appeal judgment namely ***Roy Beehary v The Republic 11/ 2009*** clearly illustrates that the said Article and the derogations contained therein apply to persons who are produced before court and charged with an offence as was borne out by the facts of the said case. There was no finding in the said case that Article 18 (7) and the derogations contained therein applied to suspects only and not to the accused Roy Beehary who had already been charged with an offence.

[12] For the aforementioned reasons this court finds no merit in the application for bail. For the reasons contained herein this court is satisfied that sufficient grounds exist to further remand the accused into custody. I proceed to remand the accused into custody.

Signed, dated and delivered at Ile du Port on 16 October 2014

M Burhan  
**Judge of the Supreme Court**