

IN THE SUPREME COURT OF SEYCHELLES

CriminalSide: CO13/2015

[2016] SCSC1048

THE REPUBLIC

versus

RALPH SONNY SAMEDI

Accused

Heard: 9, 14 December 2016
Counsel: B Confait, State Counsel for the Republic
A Amesbury for the accused
Delivered: 19 December 2016

RULING

Dodin J

- [1] The accused stands charged with one count of trafficking in 32.493kg of cannabis herbal material; one count of trafficking in 1.559kg of cannabis resin and one count of trafficking in 11.7g of heroin (diamorphine).
- [2] The accused was arrested on the 28th January, 2015 and has been on remand to date. Trial in this case has already started but has not yet completed and the prosecution still has on the list 6 more witnesses to call.

- [3] Learned counsel for the accused moved the Court to release the accused on bail with conditions on the grounds that:
- i. The accused has been on remand for an unreasonably long time and trial is not likely to be completed in the immediate future.
 - ii. The evidence adduced by the prosecution so far has not established a case against the accused.
- [4] Learned counsel submitted that although the amount of drugs are on the high side, no evidence has been led so far linking the accused to the drugs and the evidence so far shows that the accused was residing at Baie Lazare whilst the drugs were allegedly found at Beoliere and not in the presence of the accused.
- [5] Learned counsel further submitted that the right of the accused to be tried within a reasonable time is being seriously compromised as the accused would by January 2017 have spent 2 years on remand.
- [6] Learned counsel referred the Court to the case of Roy Brioche v Republic Cr Sca 20/15 in support of her submission.
- [7] Learned counsel for the Republic objected to the application on the grounds that:
- i. There are several more witnesses including the agents who conducted the search to be called by the prosecution to establish its case against the accused;
 - ii. The amount of drugs are on the high side and hence consist of aggravating factors for which the accused should be remanded pending completion of trial;
 - iii. Based on previous Court rulings on the issue of bail in this case, the prosecution maintains the same position and rely on the same submissions as there has been no change in circumstances since the previous rulings.
- [8] I have given careful consideration to the application and submissions of both learned counsel. Considering the length of time the accused has been on remand, I agree with learned counsel for the accused that should the trial not be completed soon, there might be issues with regards to the accused's right to be tried within a reasonable time as

provided by article 18(6) of the Constitution. Nevertheless, the Court has to consider all aspects of each case whilst determining whether an accused should be remanded into custody or released on bail. In the actual case, there is the issue of seriousness of the offence with regards to the amount of drugs involved.

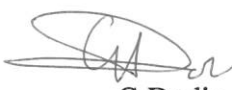
[9] Whilst keeping in mind the decision of the Court of Appeal in the case of Roy Brioché v Republic, I am also mindful that even if the charges levelled against the accused are reconsidered under the new Misuse of Drugs Act, 2016, the aggravating factors are still considerable. These would be with regard to the amount in counts 1 and 2 and also considering the commercial value of the drugs. They remain the main obstacle to bail.


[10] I have also considered the submission of learned counsel for the accused with regards to the lack of evidence against the accused by the witnesses who have testified. Whilst this could be an issue when the prosecution closes its case or if the prosecution concedes that the remaining witnesses would not add anything more to what has been adduced so far, the Court has to be mindful not to make a finding on the evidence before the prosecution has had the opportunity to set out its case fully. Hence I shall not consider this at this stage as a ground for bail.

[11] I therefore maintain that the seriousness the offence when considered with the circumstances of this case, namely the aggravating factors referred to above, makes it unwise to grant bail at this stage.

[12] This application for bail therefore fails and is dismissed but as the case develops, the accused may request the Court to reconsider as necessary if new circumstances come to light.

Signed, dated and delivered at Ile du Port on 19th December, 2016.


G Dodin
Judge of the Supreme Court

The seal of the Seychelles Supreme Court is circular. It features a central emblem with a bird, possibly a frigatebird, perched on a branch. The text "SEYCHELLES SUPREME COURT" is written around the top inner edge of the circle, and "SEAL OF THE" is written around the bottom inner edge. There are small stars on either side of the bottom text.