

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO 10/2015

[2016] SCSC 481

THE REPUBLIC

versus

ROY JULIUS JULIENNE

First Accused

RON POUPONNEAU

Second Accused

Heard: 22 June 2016

Counsel: Mr. Hermanth Kumar, Assistant Principal State Counsel for the Republic
Mr. Basil Hoareau Attorney at Law for the first accused
Ms. Karen Domingue Attorney at Law for the second accused

Delivered: 7 July 2016

ORDER

Burhan J

[1] I have considered the submission made by learned counsel Mr. Chetty, in respect of his application for the release of both the accused on bail and the objections to the application, expressed by learned counsel for the prosecution, Mr. Hemanth Kumar, Assistant Principal State Counsel.

[2] The main ground urged by learned counsel for the 1st accused whose application was on behalf of both accused, is the delay in concluding this case. It is to be observed from the

proceedings that as trial proceeded, a majority of the adjournments on trial dates were sought by learned counsel for the defence. In fact, even though the prosecution counsel was held up in another ongoing case namely the “Charitha case” *The Republic v Roy Brioché & Ors CO 2 of 2013*, he had made it a point to be present on the 16th of March 2016 with his witnesses but it appears defence counsel for the 1st accused was held up in another urgent matter, the election petition case, as borne out by the proceedings and the case had to be once again adjourned.

- [3] On the 21st of March 2016 even though learned counsel for the prosecution had free dates in the month of May 2016, learned counsel for the 2nd accused informed court her earliest free date was the 25th of July 2016 which was not convenient to the prosecution. Thereafter the case was fixed for the 9th and 13th of September 2016 dates convenient to both counsel. Although this was done in the presence of Mr. Chetty himself as he was standing in for learned counsel Mr. Basil Hoareau, he now informs court that it will not be possible to hear the case on the 13th of September 2016 as Mr. Basil Hoareau is held up in another court and it would not be possible for him to attend on that date.
- [4] It is apparent that the prosecution is now at the tail end of its case, having led the evidence of the accomplice and the detecting officers and from the above mentioned facts, it is apparent the delay in concluding this case is due largely to the several adjournments sought by the defence.
- [5] The charge against both accused is under the old Misuse of Drugs Act and in respect of trafficking in a quantity of a Class B controlled drug. However when one considers the quantity involved i.e. 16, 863.9 grams, the seriousness of the charge becomes apparent as the trafficking of such a large quantity of controlled drug even of a Class B nature, attracts a mandatory term of life imprisonment under the old Act and 50 years imprisonment under the new Act.
- [6] I am of the view that considering the seriousness of the charge as borne out by the severity of the penalty prescribed by law, there is a strong possibility of both the accused absconding if released on bail.

- [7] Further I observe that the prosecution has led a large volume of its evidence and unlike at the time both accused were produced before this court, there exists now more than affidavit evidence before court against both the accused.
- [8] For the aforementioned reasons i.e. considering the seriousness of the charge, the likelihood of the accused absconding in the face of such a serious charge and the fact that the delay in hearing of the case has been largely due to the non-attendance of defence counsel on trial dates when all the prosecution witnesses were present, it would be unfair for learned defence counsel to complain or state that the case is not being completed within a reasonable time, especially when the case is a case filed in the year 2015.
- [9] Therefore the application for bail is declined. Both accused are further remanded into custody.

Signed, dated and delivered at Ile du Port on 7 July 2016

M Burhan
Judge of the Supreme Court