

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO 02/2016

[2017] SCSC 264

THE REPUBLIC

versus

ANTOINE MAXIME FINESSE

Accused

Heard:

Counsel: Ms. Amanda Faure, State Counsel for the Republic
Mr. Rajasundaram Attorney at Law for the accused

Delivered: 23 March 2017

SENTENCE

Burhan J

- [1] The accused in this case has been charged with the following counts; Count 1 trafficking in 6.13 grams of Heroin, Count 2 trafficking a quantity of 26.0 grams of Cannabis Resin and Count 3 being in possession of an apparatus intended for the administration of controlled drug.
- [2] Accused has pleaded guilty without wasting the time of Court with the instructions of his learned counsel, thereby expressing remorse and regret and expecting leniency. The

accused is a first offender 32 years of age and has twins the age of 13 years. On the submission made by learned for the accused, the accused has been gainfully employed as a mechanic at the time of his detection.

[3] Having considered all these circumstances I am of view there is a possibility of this accused reforming himself. I therefore do not wish to deal with him severely in the aforementioned circumstances. However, I take into consideration the fact that the controlled drugs taken into custody are 6.13 grams of Heroin a Class A drug and a quantity of 26 grams of Cannabis Resin. The fact that an apparatus was also found in his custody is a further aggravating circumstance. I therefore feel that a short incarceratory term of imprisonment is important.

[4] Further I also consider the fact that he has been for a period of 15 months in remand custody. Further I consider the present trend in sentencing. Even though the charge is framed under the old Act convicts who plead guilty are sentenced under the New Misuse of Drugs Act as the benefits accruing from this Act are given to the accused. Therefore I will not proceed to impose any minimum mandatory term of imprisonment and proceed to impose the recommended term of sentence under the New Misuse of Drugs Act.

[5] I therefore proceed to sentence the accused as follows:-

- 1.** Count 1 to a term of 2 years imprisonment and a fine of SR 10,000. Failure to pay the fine the accused will serve of 6 months imprisonment;
- 2.** On Count 2 I proceed to sentence the accused to a term of 3 months imprisonment and a fine of SR 5,000. Default of payment of the fine the accused is to serve a term of 3 months imprisonment;
- 3.** On Count 3 I proceed to sentence the accused to a term of 1 year imprisonment. I further make order that all 3 terms of imprisonment run concurrently, which means the accused will be serving a maximum term of 2 years imprisonment.

[6] However, failure to pay the fine of SR 10,000 and SR 5,000 imposed on the accused will result in him spending 6 months and 3 months imprisonment on each of these sentences

consecutively. I also make order that the time spent in remand be reduced from this term of imprisonment.

[7] Further considering the quantity of drugs involved I make order that the accused is entitled to remission at the discretion of the Prison Commissioner.

Signed, dated and delivered at Ile du Port on 23 March 2017

M Burhan
Judge of the Supreme Court