

**IN THE SUPREME COURT OF SEYCHELLES**

**Criminal Side: CO 03/2018**

**[2017] SCSC**

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**THE REPUBLIC**

versus

**JEAN ALBERT LOUISE**

Accused

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Heard:

Counsel: Mr Kumar, Assistant State Counsel for the Republic  
Mr Gabriel for the accused

Delivered: 11 January 2018

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**RULING**

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R. Govinden, J

[1] The Accused Jean Albert Louise of Tamatave Estate, Praslin, has been charged with the following offences namely,

***Statement of offence***

[2] Possession with intent to traffic in a controlled drug namely, Cannabis herbal materials contrary to Section 9(1) of the Misuse of Drugs Act punishable under Section 7(1) of the Misuse of Drugs Act 2016.

***Particulars of offence***

[3] Jean Albert Louise of Tamatave Estate, Praslin on the 28<sup>th</sup> of December 2017 at Grand Anse, Praslin possessed the controlled drug having a net weight of 1243.0 grams of Cannabis material unlawfully with intent to traffic with contravention of the said Act and committed the offence of trafficking.

[4] And in Count 2,

***Statement of offence***

[5] Possession with intent to trafficking in a controlled drug, namely Cannabis Resin, contrary to Section 9(1) of the Misuse of Drugs Act 2016 punishable Section 7(1) of the Misuse of Drugs Act 2016.

***Particulars of offence***

[6] Jean Albert Louise of Tamatave Estate, Praslin on the 28<sup>th</sup> of December 2017 at Grand Anse Praslin possessed a said controlled drug having a net weight of 184.3 grams of Cannabis resin unlawfully with intent to traffic in contravention of the said Act and committed the offence of trafficking a controlled drug.

[7] The prosecution has filed a notice of motion applying for the remand of the Accused in custody in accordance with Section 179 of the Criminal Procedure Code read with Article 18(7) of the Constitution.

[8] The facts of the case for remand is set out through an Affidavit deponed by Officer Egbert Payet of the Anti Narcotic Bureau, wherein he recites the facts of the case as seen by prosecution so far. The prosecution pray that the remand be effected based on the serious nature of the offence, namely that a maximum sentence that can be inflicted by the Court in this case, in the event of a conviction, is 50 years imprisonment and a fine of SR500,000/-.

[9] Further, the prosecution argues that there are substantial grounds to believe that the Accused, if released on bail, will likely to abscond thus obstructing the course of justice because he faced a serious charges.

- [10] The second main ground that the prosecution relies upon, is that the drug offences are on the rise in the country and is endangering the peace, public order and morality, especially in the young generation.
- [11] In his submission Mr Kumar learned counsel for the Republic relies heavily on the serious nature of the offence. Because of that he submits that there is a high probability that if enlarged on bail the Accused might abscond.
- [12] Mr Gabriel learned counsel for the defence objected strenuously in the application for bail. He submitted that these kind of cases, as in other cases, one has to weigh the innocence of the Accused and his right to liberty against the seriousness of the offence charged. He submitted that this is a Class B drug and the likely sentence if ever he is convicted will be up to many 2 years.
- [13] He argues that the suspect had had an accident on a scooter early morning at 04:30am and it is averred by the prosecution that there and then he was charged and cautioned by the Republic and that this consist a breach of Constitutional Right because he would have been unable to exercise his right to counsel there and then on the scene of the accident.
- [14] Having considered the facts of the case as laid out by the Republic and submissions of both counsels, the Court is of the opinion that these are charges regarding a Class B drug and that there is no maximum sentence of life imprisonment. And if one is to look at practice and antecedents of sentencing in this Court, when it comes to a Class B drug the sentence will be consist an amount of years in prison and will not be more than 5 years.
- [15] All witnesses in this case are police officers and none civilian witnesses. They are the officers of police and Anti Narcotic Bureau officers on Praslin. They are given their own protection in law and they capable of taking actions under the Police Force Act and Criminal Procedure Code, if ever they are intimidated, harassed otherwise have their testimony affected. Moreover, it is submitted by counsel of the Republic that the Accused has no history of previous absconding.
- [16] When one weighs the seriousness of the offence in the light of these facts and circumstances and the need to protect the public interest, I am of the view that in this case the balance weighs in favour of the Accused person.

[17] Therefore I would release him on bail on the following conditions:

- (a) The Accused shall report to the Grand Anse Police Station on Praslin once a week on Mondays at 5:00pm.
  
- (b) The Accused shall surrender his passport and any travelling documents that he may have in his possession to the Registry of this Court today at the end of this proceedings.
  
- (c) The Accused shall sign a bail bond in the sum of SR50,000/-. In the event of any breach of his bail conditions this bail bond shall be forfeited to the Court and shall be deposited in the consolidated fund.
  
- (d) The Principal Secretary Department of Immigration shall be informed of these bail conditions.

Signed, dated and delivered at Ile du Port on 11 January 2018

R Govinden , J  
**Judge of the Supreme Court**