

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO 15/2018

[2018] SCSC 332

THE REPUBLIC

versus

ELVIS D'UNIENVILLE
FIRST ACCUSED

DWEN CRISPIN
Second Accused

Heard: 29 March 2018
Counsel: Ms. Amanda Faure, State Counsel for the Republic
Ms. Karen Domingue Attorney at Law for the second accused
Delivered: 5 April 2018

RULING

Burhan J

- [1] I have considered the submissions made by learned counsel for the 2nd accused (Dwen Crispin) for bail and the objections of learned counsel for the prosecution.
- [2] On consideration of the affidavit filed seeking remand dated 29th March 2018 and the submissions of learned counsel for the prosecution, it is apparent that the 1st accused (Elvis D'unienville) was instrumental in driving the vehicle away from the approaching

officers of the ANB, while the 2nd accused threw away the exhibits 59.8 grams of Heroin, which were in his possession and according to the affidavit filed admitted doing so, in his statement under caution. Having heard both learned counsel for the accused, this Court by a very recent order dated 9th March 2018, remanded the 1st and 2nd accused into custody based on the seriousness of the offence and the fact that the accused had driven away on seeing the officers of the ANB (Anti-Narcotics Bureau) and the 2nd accused had gone to the extent of even throwing the controlled drugs away in the ensuing chase, in order to obstruct the course of justice.

[3] Further, it was brought to the notice of Court at the very outset, that the 1st accused had breached his bail conditions in case CO/47/2017 which is still pending before Court, by committing an offence of similar nature whilst on bail, indicating the likelihood and propensity of the 1st accused to reoffend. The facts are further aggravated in that the controlled drug is a Class A controlled drug, Heroin and the quantity is 59.8 grams. The 1st accused now faces a maximum term of not one but two life imprisonments in each of the two cases which increases the possibility of the 1st accused absconding in the face of such serious charges.

[4] In a renewed application for bail, learned counsel for the 2nd accused relied on medical grounds and supported her application by referring to the cases of **R v Serge Esparon [2016] SCSC 863** and **R v Joseph and others [2016] SCSC 892**. I note that the weight of controlled drug heroin in the Esparon case is 15.5 grams while the weight of controlled drug in this case is very much more, 59.8 grams. The controlled drug involved in the case of R v Joseph was a Class B drug Cannabis. Further the charge of trafficking in this instant case is not based on the quantity in possession but actual transportation.

[5] Learned counsel for the 2nd accused has referred to certain medical conditions of the 2nd accused. Learned counsel for the 2nd accused complained of assault on the 2nd accused. A medical report was called for by the Court and a copy handed over to learned counsel for the prosecution and the 2nd accused. The report in respect of his examination done on the 28th of February 2018, indicates the 2nd accused complained of pain in his right buttock. There is no history of police assault and the medical certificate states that the 2nd accused did not have any lesions or injuries in his right buttock. He had complained of pain and

been given analgesic (pain killer) treatment. Another medical certificate produced on behalf of the 2nd accused, indicates he has dermatitis and allergies. I am of the view that none of the aforementioned medical certificates warrant release of the 2nd accused on medical grounds.

[6] For all the aforementioned reasons and the reasons contained in the order dated 9th March 2018, the application for bail on behalf of the 2nd accused is declined.

Signed, dated and delivered at Ile du Port on 5 April 2018

M Burhan
Judge of the Supreme Court