

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO 42/2018

[20118] SCSC 877

THE REPUBLIC

versus

ERIC LOIZEAU

Accused

Heard: 2 October 2018
Counsel: Mr Ananth Supramanian, Principal State Counsel for the Republic
Mr Basil Hoareau Attorney at Law for the accused
Delivered: 2 October 2018

SENTENCE

Burhan J

- [1] The convict Eric Francis Loizeau of La Gogue has pleaded to the charge of being in possession of a quantity of 272.5 grams of Cannabis as set out in Count 2 and also pleaded guilty to a charge of being in possession of 11 grams of Cannabis herbal material as set out in Count 3.
- [2] I have considered the submissions made by learned counsel for the convict in Mitigation. Learned counsel for the Prosecution has also tendered to me the guidelines in the sentencing of such offenders and as per the guidelines, it is apparent that the offence of

trafficking in Cannabis up to quantity of 250 grams depending on the quantity a sentence of a maximum of one year imprisonment/or fine, suspended sentence has been recommended by the guidelines.

- [3] I observe that the Prosecution in addition to Count 1 has brought in a lesser charge of possession under Section 8 of the Misuse of Drugs Act (MODA) and not one of the trafficking against the convict in respect of the quantity of 272.5 grams of Cannabis. This has been brought as an alternative to the charge of cultivation. It is apparent that the Prosecution has done so having taken into consideration the provisions contained in Section 36 of the Misuse of Drugs Act 2016 and done so on the basis of the quantity of 272.5 grams of Cannabis was for his private use and not for trafficking purposes.
- [4] I also have at this juncture to draw attention to Section 47 (4) of the Misuse of Drugs Act which states as follows "*In sentencing a person convicted of an offense under Section 8 of this Act, the Court shall not impose a Sentence of imprisonment unless satisfied that a non-custodial sentence is inappropriate in all the circumstances.*"
- [5] I notice that when one considers the personal circumstances of the convict that the convict is married having two children aged 11 and 4 years. He is self-employed as a Horticulturist and he has no previous convictions. Further the convict at the very outset of the case, has pleaded guilty, thereby expressing remorse and regret and expecting the leniency of Court.
- [6] As brought to the attention of this Court by Learned Counsel for the convict I note that many mitigating factors as set out in Section 49 are present and no aggravating factors have been brought to the attention of this Court by the Prosecution.
- [7] On perusal of the particulars of the charge or the particulars of offence contained in the charge, I also take note that in addition to all the above circumstances, the convict has been found guilty of the charge of possession and not trafficking in the said quantity of control drug. For the aforementioned reasons, I proceed to sentence the convict as follows.

1. In order to act as a deterrent, I proceed to sentence him to a term of six (6) months imprisonment which I suspend for a period of two (2) years, in respect of alternative Count 2.
2. I further make Order that the convict pay a fine of Seychelles Rupees fifteen thousand (SR15, 000 /-) in respect of Count 2. Default in payment of fine the convict will serve a term of 6 months imprisonment.
3. In respect of count 3, I proceed to fine the convict a sum of Seychelles Rupees two thousand five hundred (SR2, 500/-). In default of payment of fine a term of 3 months imprisonment.

Signed, dated and delivered at Ile du Port on 2 October 2018



M Burhan
Judge of the Supreme Court