

SUPREME COURT OF SEYCHELLES

Reportable
[2019] SCSC 108
CO 04/2019

In the matter between:

THE REPUBLIC Republic
(rep. Mr. George Thachett)

and

JOELENE CHARLES LEGAIE Accused
(rep. by Mr. Anthony Juliette)

Neutral Citation: *Republic v Legaie* (CO 04/2019) [2019] SCSC 108 (18 February 2019)

Before: Burhan J

Summary: Bail

Heard: 7 February 2019

Delivered: 18 February 2019

ORDER

BURHAN J

[1] The accused in this case has been charged with trafficking in a quantity of 100.21 (pure quantity 61.09) grams of Heroin and is additionally charged with being in possession of 0.41 grams of Heroin, 16.37 grams of Cannabis Herbal material and 0.24 grams of Cannabis Resin.

[2] I have considered the application for bail made by Learned Counsel for the accused Mr. Juliette. He refers to the cases of *R v Robin Hoareau* and *Republic v Payet* where the

accused charged with similar offences were released on bail. I note that the quantity in the *Hoareau* case was very much less than this case, whilst in the *Payet* case the accused was released on medical grounds. In the *R v Brigillia* referred to by Learned Counsel, this Court released the accused on bail as there was no application for remand made by the prosecution. Therefore the release of a suspect or accused on bail would depend on the circumstances of each case.

[3] The accused right to bail under article 18 of the Constitution is not an absolute right but subject to derogations as contained in article 18 (7) of the Constitution.

[4] In this instant case, the quantity of Heroin a Class A drug taken into custody is 100.21 grams and the accused faces a maximum term of life imprisonment and an indicative minimum term of 20 years imprisonment. This in itself speaks of the seriousness of the offence with which the accused has been charged. The possibility of the accused interfering with witnesses when facing such a serious charge exists in this instant case, as according to the submissions and facts before Court, the prosecution is relying on the evidence of several lay witness whose under caution statements have been recorded and who are known to the accused. On consideration of all the above mentioned facts this Court is satisfied that substantial grounds exist to believe that the witnesses could be interfered with in this case and thereby the course of justice obstructed.

[5] I also observe from the facts before Court that not only Heroin but other small quantities of Cannabis Resin, Cannabis herbal Class B controlled drugs were also found in the possession of the accused at the time of his arrest which aggravates the charges against him.

[6] Having considered the above, I am satisfied that substantial grounds exist under article 18 (7) of the Constitution to remand the accused.

Signed, dated and delivered at Ile du Port on 18 February 2019

Burhan J