

IN THE SUPREME COURT OF SEYCHELLES

Reportable
[2019] SCSC 1043
CR46/2019

REPUBLIC
(rep by Joshua Revera)

Prosecution

and

MICKY PERRY ZELIA
(rep. by Clifford Andre)

Accused

Neutral Citation: *Republic v Micky Perry Zelia* CR 46 of 2019 delivered on 25th September 2019

Before: **Vidot J**

Summary: possession of a controlled drug and possession with intent to traffic.

Heard: 11th September 2019

Delivered: 25th November 2019

SENTENCE

VIDOT J

[1] The Accused was charged and convicted of the following offences on his own guilty plea;

Count 1

Statement of offence

Possession of a controlled drug with intent to traffic contrary to section 9(1) read with section 19(1) of the Misuse of Drugs Act 2016 and punishable under section 7(1) specified in the Second Schedule of the said Act.

Particulars of Offence

Micky Zelia of St. Louis, Mahe on the 14th August 2019, at Les Mamelles, Mahe was found in possession of 161.27 grams of cannabis resin, which gives rise to a rebuttable presumption of having been in possession of the said 161.27 of cannabis resin for the purpose of possession with intent to traffic.

Count 2

Statement of Offence

Possession of a controlled drug with intent to traffic contrary to section 9(1) read with section 19(1) of the Misuse of Drugs Act 2016 and punishable under section 7(1) specified in the Second Schedule of the said Act

Particulars of Offence

Micky Zelia, of St. Louis, Mahe on the 14th August 2019, at Les Mamelies, Mahe, Anne was found in possession of 123.50 grams of cannabis which gives rise to the rebuttable presumption of having been of the said 123.50 grams of cannabis for the purpose of possession with intent to traffic.

Statement of Offence

Possession of a controlled drug with intent to traffic contrary to section 8(1) and punishable under the Second Schedule of the Misuse of Drugs Act 2016

Particulars of Offence

Micky Zelia, of St. Louis, Mahe on the 14th August 2019, at Les Mamelles, Mahe, Anne was found in possession a brown and green piece of paper wrapping a piece of black plastic containing aggregates of a greyish substance and powder that is a controlled drug namely heroin (diamorphine) with a net weight of 34.93 grams and a purity of 23% amounting to 8.03 grams of heroin (diamorphine) .

- [2] After he pleaded to the charges the Accused requested that the Court seek for a probation report. A copy of the report was handed over to the Accused due to the absence of his Counsel in Court on 22nd November 2019. I have given due consideration to the report.
- [3] The Accused is a first time offender. He is 28 years old. He is in polygamous relationship and has 2 partners. He is of the Muslim faith. He has 4 children, 3 with one woman and 1 with the other. The children are of very young and tender age ranging between 5 months and 8 years old. They are obviously missing their father as it appears that he participated in their upbringing. He also contributed financially towards their upbringing and at least one of the mothers have expressed hardship as result of his incarceration.
- [4] The Accused graduated and worked for a while as a nurse. He suffered injuries at work where he damaged his back and was forced to leave the profession. Recently he was earning a living as a boat owner. He acknowledges to be drug dependant and was using cannabis as medication for his severe back pain but unfortunately in the process he got hooked on cannabis.
- [5] In mitigation his Counsel has pleaded for leniency considering that the Accused pleaded guilty thereby saving the Court's precious time.
- [6] I have taken into consideration all matters in mitigation. In particular I take into consideration his age and that of his children and he has until now been on the good side of the law. I also take into account his guilty plea.
- [7] I have also considered that in meting out sentence, the Court has to bear in mind that classic principle of sentencing is deterrence, prevention, rehabilitation, reformation and retribution; see **Lawrence v Republic [1990]SLR 47**. I also bear in mind the principle of proportionality of sentence.
- [8] However, a guilty plea saves the court's precious time and the Accused should earn credit for that and obtain discount from the sentence that would have otherwise been imposed if the case had proceeded though full trial. In **R v Buffery 14 Cr. App. R. (S) 511CA**, Lord

Taylor CJ stated that there was no absolute rule as to what the discount should be, but as general guidance, the Court believed that something of the order of one third would be an appropriate discount. **Blackstone's Criminal Practice (2012), paragraph E.12 p2148** provided that a guilty plea would in effect earn an accused a reduction in sentence as it saves time of the court and reduces considerable cost and in case of an early plea, saves inconvenience of witnesses to give evidence before Court, and therefore that "*reduction should be a proportion to the total sentence imposed calculated by references in which the guilty plea was indicated, especially at what stage in the proceedings.*"

[9] Therefore I sentence the Accused as follows;

- (i) On count 1, a term of 6 months imprisonment suspended for 1 year and a fine of SR3000/- and in default 4 months imprisonment
- (ii) On count 2 to a term of 3 months imprisonment suspended for 1 years and to a fine of SR2,500.00 and in default 3 months imprisonment.
- (iii) On count 3 to a term of 1 year and 6 months imprisonment suspended for 2 years and to a fine of SR8,000.00 and in default 1 year imprisonment..
- (iv) All the above sums shall be paid within 6 months after serving the prison term.

[10] The Accused has a right of Appeal against conviction and sentence within 30 working days from today.

Signed, dated and delivered at Ile du Port 25th November 2019


Vidot J