

SUPREME COURT OF SEYCHELLES

Reportable
[2020] SCSC
CO 42/2019

In the matter between:

THE REPUBLIC
(rep. by George Thachett)

Prosecution

and

ESTHER AUMA BWIRE
(rep. by Clifford Andre)

Accused

Before: Burhan J
Heard: 12 December 2019
Delivered: 17 January 2020

SENTENCE

BURHAN J

- [1] The convict Esther Auma Bwire was convicted on her own plea of guilt on the following charge (Count 2) namely, trafficking in a quantity of 252.40 grams of a controlled drug namely Cocaine having a Cocaine purity content of 196.87 grams under section 7 (1) of the Misuse of Drugs Act 2016 (MODA 2016).
- [2] Learned Counsel for the convict Mr. Andre, made a plea in mitigation on behalf of the convict. The main grounds urged by learned Counsel were that the convict had pleaded guilty at the 1st opportunity which is a mitigating factor as per MODA 2016. He further submitted that his client was a first offender. On being arrested she had fully co-operated with the officers of the Anti- Narcotics Bureau (ANB) by voluntarily handing over the

controlled drug which was in her person and voluntarily taking part in the controlled delivery.

- [3] He stated that the convict who according to the prosecution was 46 years of age had three children aged 3, 10 and 17. He stated that the quantity was 196.87 which was lesser than 250 grams and as such there were no aggravating circumstances to enhance the punishment against her. He moved that a suspended sentence be imposed on the convict.
- [4] On the facts before Court, I am satisfied that the convict has expressed remorse and regret at the incident by pleading guilty, thereby expecting leniency from Court. She is a first offender. In regard to the quantity found in her possession at the time of importation and the facts before Court it is also apparent that the controlled drug brought into the country was not for the personal consumption of the accused. This aggravates the offence as the controlled drug was being brought for more sinister purposes than that of consumption by the convict herself. Therefore even though the quantity is less than 250 grams, I am of the view considering the nature of the controlled drug and the seriousness of the charge which is trafficking and the facts peculiar to this case, a custodial term of imprisonment should be given.
- [5] Having also considered the facts in mitigation, the fact that the charge was reduced to trafficking and the fact she is a first offender, her family circumstances, the total quantity of controlled drug and giving due consideration to her prompt plea of guilt, which warrants a decrease in the recommended sentence, I proceed to sentence her as follows:

On Count 2 to a term of 5 years imprisonment.

[6] Time spent in remand to Count towards sentence. The convict is entitled to remission as no aggravated circumstances exist. Copy of this order to be served on the Superintendent of Prisons.

Signed, dated and delivered at Ile du Port on 17 January 2020.

M Burhan J