

SUPREME COURT OF SEYCHELLES

Reportable
[2020] SCSC
CO 24/2020

In the matter between

THE REPUBLIC
(rep. by Mr. Joji John)

and

DANIEL LESPOIR
(rep. by Mr. France Bonte)

Accused

Neutral Citation: *The Republic v Daniel Lespoir* (CO 24/2020) [2020] SCSC (1 June 2020)
Before: Twomey CJ
Summary: Bail application
Heard: 18 May 2020
Delivered: 1 June 2020

ORDER

TWOMEY CJ

- [1] The accused person has been charged with one count of sexual assault contrary to section 130(1) read with Section 130 (2) (d) of the Penal code and punishable under Section 130(1) of the Penal Code.
- [2] The particulars of the offences are that Daniel Lespoir of Petit Paris, Mahe, on 25 March 2020 at Perseverance, Mahe, sexually assaulted a person, namely MKL of Copolia by the penetration of a body orifice of another for a sexual purpose namely by inserting his penis in the vagina of MKL.
- [3] He has pleaded not guilty to the charge.

- [4] The accused was subsequent to his arrest remanded into custody based on the grounds averred in Detective Soultane Amice's affidavit, namely: the offence is serious with a maximum sentence of 20 years on conviction, that the accused was convicted and sentenced by the Supreme Court in Cr. 23 of 2011 for a similar sexual assault and has on his release from prison committed a similar offence and that there are substantial grounds to believe that if the accused is not remanded and released on bail there is a likelihood that he might repeat the offence.
- [5] He applied for bail on the 8th April 2020 on the following grounds: that he had been in remand since his presentation to court, that he is ready and willing to enter into reasonable conditions if released on bail and given the COVID 19 situation it would be best if he was released on bail.
- [6] Vidot J, on the same day, refused the bail application and remanded the accused into custody, on the basis that although the accused was innocent until proven guilty, he had to take note that the accused had been convicted of a similar offence not long previously and was now accused of a similar offence.
- [7] The accused has on 6 May 2020 applied for bail again on exactly the same grounds as his previous application.
- [8] In deciding whether to grant bail in this case, I remind myself that bail is a constitutional right that can only be restricted in cases where there are compelling reasons both in law and facts for denying the same (*R v Esparon and others* (SCA No: 01 of 2014) [2014] SCCA 19 (14 August 2014)). In the instant case, the accused has made a second bail application on exactly the same grounds as his first bail application. I therefore also note the following pronouncement in *Esparon* by the Court of Appeal on the issue of subsequent applications for bail after the first has been refused:

“The Judge may, for good reason, grant [the accused] bail on being satisfied that the case is taking too long, the defendant is one that will not abscond, the facts are too tenuous against him and for many other reasons such as there have been a change of circumstances since the decision to deny him bail...”

[9] The same principles had previously been expressed in *Republic v Roseline & Ors* [1987] SLR 1 and *Roy Beeharry v The Republic* [SCA 11 of 2009].

[10] In the instant case, trial has been set for 9 July, 2020, a mere four weeks from today and less than three months from his arrest for the offence. More importantly, no new circumstances have been raised by the accused person to merit a reconsideration of his remand in custody.

[11] In the event, I am satisfied on consideration of all the above facts that the *prima facie* case as made out by the prosecution to keep the accused on remand continue to exist. The application for bail is declined.

Signed, dated and delivered at Ile du Port on 1 June 2020

Twomey CJ