

SUPREME COURT OF SEYCHELLES

Reportable

[2020] SCSC 477

Cr S 75/2020

In the matter between

THE REPUBLIC

(rep. by Evelyn Almeida)

and

IBRAHIM DENISE

(rep. by Somasundaram Rajasundaram)

Neutral Citation: *R v Denise* Cr S 75/20 [2020] SCSC 477 (24 July 2020)

Before: Twomey CJ

Summary: possession with intent to traffic – plea of guilty – 4.20g heroin – sentencing guidelines

Heard: 1 June - 10 July 2020

Delivered: 24 July 2020

SENTENCE

The accused is sentenced to a term of a term of one year’s imprisonment suspended for two years

TWOMEY CJ

[1] The convict pleaded guilty to a charge of trafficking in 9.35 grams of a substance with a heroin content of 4.20 grams of pure heroin which gives rise to a presumption of having possessed the drug with intent to traffic the same.

[2] The facts of this case as articulated by Learned State Counsel, Ms. Almeida are that on 15 September 2019 the convict was apprehended at the Seychelles Hospital as a result of a wounding incident. A body search was carried out on him subsequently at the police station and a piece of squashed newspaper containing a clear plastic with substance inside

was found in his pocket. The substance in the cling film was analysed and found to have a net weight of 9.35 grams with a purity of 4.20 grams of heroin. The convict gave a statement (the contents of which he later disputed) in which he said that he used the heroin to pay taxi drivers for their services. In court, he stated that he smokes the heroin and does not use it to pay taxi drivers.

- [3] The convict admitted the facts as outlined by the prosecution apart from the detail of what he uses the heroin for- a fact with which the court is not concerned. Learned Defence Counsel, Mr. Rajasundaram, requested that a probation report be obtained in respect of the convict.
- [4] The report obtained states that the convict is 18 years old and has only done some casual work repairing fishing nets for fishing vessels. Prior to his arrest he was living with his mother. He stated that he has a heroin addiction but since he has been remanded into custody he has not been using any drugs. He has asked the court for another chance.
- [5] In a mitigation address, learned Defence Counsel submitted that the convict's plea of guilty has resulted in not wasting the court's precious time and he has pleaded for leniency.
- [6] The maximum penalty for the offence with which the convict has been charged with is life imprisonment and/ or a fine of SCR750, 000 and the indicative minimum sentence where the offence is aggravated is 20 years' imprisonment.
- [7] I take into consideration the mitigation speech by learned counsel on behalf of the convict. I also note that he has pleaded guilty, thereby expressing remorse and regret and has not wasted the court's precious time. He expects the mercy and leniency of the Court.
- [8] I also note that the agreed and adopted sentence guidelines for a quantity of more than 2 up to 10 grams of Class A drugs is two to five years of imprisonment.
- [9] In the circumstances and for the purpose of deterrence for similar offences by the convict, I sentence him to a term of a term of one year's imprisonment suspended for two years.

[10] The convict should not commit any offences under the provisions of the Misuse of Drugs Act 2016 during the currency of the suspended sentence or otherwise trigger the one-year sentence of imprisonment.

[11] The convict has the right of appeal against both conviction and sentence within thirty working days of this order.

Signed, dated and delivered at Ile du Port on 24 July 2020

Twomey CJ