

SUPREME COURT OF SEYCHELLES

Reportable
[2020] SCSC 508
CO 50/2020

In the matter between:

THE REPUBLIC
(*rep. by Mr Thachett*)

and

DINO MONTHY
(*rep. by Mr Clifford Andre*)

Neutral Citation: *R v Monthy* (CO 50/2020) [2020] SCSC 508 (28 July 2020)

Before: Govinden J

Summary:

Heard: 28 July 2020

Delivered: 28 July 2020

RULING

GOVINDEN J

[1] The learned Chief Justice in her Order dated the 23rd of June 2020 remanded the 1st, 2nd, and 5th accused persons in custody and released the 3rd and 4th one on bail. In so doing she advised that the 1st accused person was to be detained for 2 weeks after which time his Counsel would be at liberty to bring a properly supported Application responding to the Motion for remand filed by the Republic. Following this, Learned Counsel for the 1st Accused has filed his formal Notice of Motion for bail, it is dated the 14th of July 2020.

[2] The principal thrust of his Motion for bail, made under Section 179 of the Criminal Procedure Code as read with Article 18(7) of the Constitution, is that the Prosecution has not managed to come to proof that the accused person will fail to put up his appearance at

the forthcoming trial and that there has been precedence of cases that has established that in cases similar on the facts as the one before Court, accused persons had been released on bail, though with stringent conditions.

[3] I have thoroughly considered the submissions of the Learned Counsel for the 1st accused person in support of the bail Application and the reply thereto by Learned Counsel for the Republic. This consideration is done bearing in mind the facts before the Court and the established legal principles governing the issue of detention of persons charged prior to the determination of their cases. Having done so, I find that the 1st accused person in this case has not satisfied the Court that he will not pose a flight risk if he is released on bail. I have read his Affidavit in support of his Application and I have also read the Affidavit of Detective woman Sergeant Eullentin who supported the remand Application of the Republic. Having done so, I am of the view that there is a real possibility that the first accused person would either not appear for his trial or otherwise interfere with witnesses for the Republic. No bail conditions, and so I find, will be able to cure this apprehension of the Court.

[4] As far as the facts that other accused persons might have been released on bail after being charged with similar offences in the past, I am of the view that these releases will not bind this Court. In this matter the Court is considering the facts of the case which would be dissimilar to those in which those other accused persons were released on bail. Each case has to be determined based on its own strengths, merits or weaknesses. There is no binding precedent in that regards. I am satisfied that in this particular case the particular circumstances called for the remand of the 1st accused person irrespective of the situation in the other cases.

[5] Hence, I find that there has been no change of circumstances since the Learned Chief Justice made her Orders and I will remand the 1st accused for two weeks.

Signed, dated and delivered at Ile du Port on 28th July 2020

Govinden J