

IN THE SUPREME COURT OF SEYCHELLES

Reportable
[2020] SCSC 564
CR 33/2019

REPPUBLIC
(rep. by Joji John)

Prosecution

and

HILLARY ANTAT
(rep. by Anthony Juliette)

Accused

Neutral Citation: *Republic v Hillary Antat*; CS33 of 2019, [2020] SCSC 564... delivered on 11 August 2020

Before: Vidot J

Summary: Drug Trafficking; sentencing, special circumstances of accused

Heard: 07 August 2020

Delivered: 11 August 2020

SENTENCE

VIDOT J

- [1] The accused has pleaded guilty and convicted of one count of trafficking in a controlled drug by means of being found in possession of the said drug with intent to traffic contrary to section 9(1) of the Misuse of Drugs Act 2016 (MODA) read with section 9(1)(c) of the said Act and punishable under section 7(1) read with the Second Schedule of the said MODA.
- [2] The particulars of offence are that the accused, who at the time of the offence was aged 18 years old, on 28th June 2019, at around 11:50 hours at the residence of one person,

named Sharopaule Tirant, at Baie Ste Anne, Praslin, was found in possession was of a controlled drug, namely heroin (diamorphine) having a total weight of 23.32 grams, with a purity of 70% of the total weight amounting to 16.32 grams, which gave rise to the rebuttable presumption of having possessed the said controlled drug with intent to traffic in the said controlled drug.

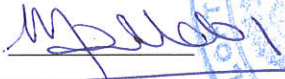
- [3] The Prosecution laid down the facts that were admitted by the accused. Apart from the matters referred to in the particulars of offence, Counsel added that the Police had credible information that there were drug related activities being carried out at the residence of Sharopaule Tirant. They mounted an operation and when they reached the said house they noticed that the kitchen door was opened and the accused running towards the door. They followed the accused and saw her throw away a clear plastic packet which was in her hand into the toilet, but one officer managed to retrieve it. The accused was arrested and revealed that there was some money in her bedroom, altogether there was SR8000.00
- [4] In mitigation, Counsel for the accused pleaded for leniency. She pleaded guilty at the earliest opportunity, therefore showing remorse for the offence committed. He stated that the accused is still very young, 19 years of age. She is the mother of a 2 year old boy and presently 6 months pregnant. She is unemployed but lives with her boyfriend who is a mechanic, who maintains her. She had been living with her mother at Port Glaud. The latter is poor and utilities had been disconnected in the house. She had a friend on Praslin, Sharopaule Tirant, who offered her and her the one year old son accommodation at her house on Praslin. Unfortunately, she was escaping poverty but ended up facing another demon; drugs. This has negatively impacted her life.
- [5] In **Morin v R SCA Cr 11/2002 [2003]** (11th April 2003), the Court of Appeal held that the Court should, in the absence of some aggravating factors, be slow to sentence a first time offender to term of imprisonment if the offender can be appropriately dealt with in some other way and that such will depend on the facts and gravity of each case; see **R v Tony Palmyre [2019] SCSC 1005**. However, in this case we note some aggravating

factors by the fact that cash was seized, which is an indication that drug trafficking was being carried out.

- [6] The accused pleaded guilty, thus saving the Court's precious time. She has also by his guilty plea shown remorse for the offence committed. The early guilty will earn credit and obtain discount of the sentence the court would otherwise have imposed if the case proceeded to full trial. In **R v Buffery 14 Cr App. R (S) 511CA**, Lord Taylor said that there was no absolute rule as to what discount should be, but as a general guidance the Court believed 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 the accused 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 appropriate to the total sentence imposed calculated by references in which the guilty plea was indicated, especially at what stage in the proceedings*".
- [7] I have indeed considered all matters in mitigation, particularly the special circumstances of the accused being very young, with a child and pregnant. I considered the harsh socio economic conditions she has had to endure and she ended up in drug trafficking. This should not out to be a vicious circle that would be passed on to her children. Society needs to be committed towards finding ways to break such cycle and allow the children to have a different life and have a more worthy future. That is what they deserve. Drug is really a scourge that is eating away the fabric of society.
- [8] According to the sentencing guidelines, considering the amount of class A drug seized, a sentence between 5 to eight 8 years is warranted. However, due to the particular circumstances of the accused, particularly her youth, her 2 years old child and the fact that she is 6 months pregnant, the court needs to show certain compassion and understanding. However, in engaging in drug trafficking, the accused was failing her own children. She has to take responsibility of that.
- [9] In the circumstances, I convict the accused to 2 years and 6 months imprisonment.

[10] If unsatisfied with this sentence, the accused may appeal against it within 30 working days from today.

Signed, dated and delivered at Ile du Port on 11 the August 2020



M Vidot J

