

SUPREME COURT OF SEYCHELLES

Reportable
[2020] SCSC 749
CO51/2019

In the matter between:

THE REPUBLIC
(rep. by Esha Benoiton)

Republic

and

ANARITA IGNAIACE
(rep. by Nichol Gabriel)

Accused

Before:	Burhan J
Heard:	28 th September 2020
Delivered:	12 th October 2020

SENTENCE

BURHAN J

[1] The convict Anarita Ignaiace was charged with the following offence.:

Count 1

Trafficking in a controlled drug by virtue of being found in unlawful possession of a controlled drug namely Heroin (Diamorphine) with intent to traffic contrary to section 9 (1) read with section 7 (1) and Section 19 (1) of the Misuse of Drugs Act 2016 (Act 5 of 2016) and punishable under Section 7 (1) as specified in the Second Schedule of the said Act.

[2] The controlled drug as borne out by the particulars of offence is Heroin net weight 4.16 grams (pure quantity 2.12 grams).

- [3] The convict pleaded guilty to the said charge without proceeding to trial and was convicted of same.
- [4] At the request of learned Counsel for the convict Mr. Gabriel, a probation report was called and thereafter learned Counsel made a plea in mitigation on behalf of the convict. I have considered the facts contained in the probation report and the plea in mitigation.
- [5] According to the report, the convict is 36 years old. She is living with her mother, nephew and daughter aged 11 years. She had completed her studies up to Secondary five. She had worked at Indian Ocean Tuna Factory for three years and thereafter been a home carer to her father. She had also worked at Dockland Supermarket for three years as a cleaner. The convict has informed the probation officer that she is drug free and when the Agency for Prevention of Drug Abuse (APDAR) had done a drug test on her, it had been negative.
- [6] It appears from the report that the convict had received from her partner the controlled drug for her to keep it in her possession. She had numerous arguments with her partner in respect of his addiction to the controlled drug. On occasions, he would get violent with her. When the Narcotic Bureau officers conducted a search on her the controlled drug had been found and she admits she had not told the police officers it belonged to her partner who she was living with.
- [7] It is apparent from the probation report that the convict is a first offender. She has pleaded guilty to the said offence and in doing expressed remorse and regret and saved the time of court. The convict has informed the probation that her daughter suffers from bronchitis and gets frequently sick and mother who is staying with her needs her care. It appears both depend on her. The probation recommends a suspended term of imprisonment on these grounds.
- [8] Learned Counsel Mr. Gabriel submitted the convict is free from drugs as proven by the test conducted by APDAR. She has pleaded guilty and moves for leniency.
- [9] Having considered the aforementioned facts, I am of the view that the convict has expressed remorse and regret at what she has done and saved the time of Court. The

quantity of controlled drug taken into custody does not aggravate the offence as it is well below 250 grams even though it is a Class A drug. It also appears that the convict has been tested to be drug free and it appears the conduct of her partner has put her in this situation.

[10] As the convict is a first offender and now drug free and it clearly appears to this Court that there are strong mitigating factors in her favour, I am inclined to sentence her to a suspended term as recommended in the probation report.

[11] I sentence her to a term of one year imprisonment which I suspend for a period of two years and a fine of SCR 7500. In default of payment of fine, a term of 6 months imprisonment to be imposed.

[12] Convict is to pay the fine in monthly instalments of SCR 2500/ commencing November 2020.

[13] Nature of suspended term explained to the convict in open court.

Signed, dated and delivered at Ile du Port on 12th October 2020.



M Burhan J