

SUPREME COURT OF SEYCHELLES

Reportable

[2020] SCSC 785

CR 60/2020

REPUBLIC

(rep. by Mrs. Luthina Monthy)

versus

DARREL ROUCOU

TREVOR LUC

(rep. by Mr. Nichol Gabriel)

Neutral Citation: *Republic v Roucou & or* (CR 20/2020) [2020] SCSC 785 (23 October 2020).

Before: Dodin J.

Heard: 23 October 2020

Delivered: 23 October 2020

ORDER

Ruling

DODIN J.

This is a second ruling on whether the Court should release the two Accused persons on bail or whether to keep remanding them into custody. This time the ruling is as a result of a bail application by the Accused.

In the first ruling delivered on the 14th August 2020 pursuant to the motion of the Prosecution to remand both Accused into custody pending trial, which was objected to by the Accused, the Court ruled to remand the Accused into custody on account of

seriousness of the offences changed and the fact that the Accused had easy access to the complainant/ victim although she is 16 years old.

The trial date has now been set for the 29th January, 23 and 26 February 2021. Learned Counsel for the Accused submitted in his application that the Prosecution needs to ground its renewal of remand on one of the exceptions to Article 18 (7) of the Constitution and that seriousness of the offence alone is not sufficient grounds to remand an Accused into custody until trial.

Learned Counsel put forth 9 grounds which the Court should consider in deciding on whether to remand the Accused or to release on bail. Those he argued are:

- 1) Failure to appear before the Court if bail is granted;
- 2) The Accused will endanger public safety if released on bail;
- 3) The Accused will tamper with witnesses whilst on bail;
- 4) The Accused will disturb public order whilst on bail;
- 5) The Accused has a fixed place of abode;
- 6) Whether the Accused has the means to travel overseas;
- 7) Whether the Accused is being detained in any other criminal matter;
- 8) Whether the Accused has propensity to commit such offences; and
- 9) Whether the maximum sentence would be imposed if ever there is a conviction after trial.

Learned Counsel, amongst other well-rehearsed submissions which have been exhaustively assessed and determined by various Courts in previous bail applications, submitted that the Court should also consider the character of the Accused, their morals, home, occupation, assets, family ties and the likes in determining whether they would abscond.

Learned Counsel moved the Court to release the Accused persons on bail with conditions pending trial.

Learned Counsel for the Prosecution objected to the application rehearsing the reasons advanced in the application for remand dated 7th August 2020 on which the Court ruled on the 14th August 2020. Learned Counsel submitted that the circumstances from the original grounds have not changed. Learned Counsel referred the Court to the case of Republic v Hoareau [2011] SCCA 23 in support of its contention.

Learned Counsel submitted that the minor victim/ complainant is 16 years old and the Accused persons 30 years old and held position of trust vis-à-vis the victim/ complainant and her mother which they used to get the victim/ complainant to leave her mother's house and then over powered her.

The Prosecution hence moved the Court to remand the Accused into custody pending trial in the circumstances.

I have given careful consideration to the application for bail, the objection, and the developments since the last ruling of the Court.

Certainly there has been change in circumstances as the dates of trials have now been set and no further evidence remains to be exchanged and no further investigation needs to be carried out. Considering that the trial will take place in January and February 2021, the Court must consider whether it is necessary to retain the Accused persons into custody for the next 6 months on whether with proper and strict bail conditions, the Accused can be released on bail pending trial.

It is now trite law that seriousness of the offence is not a stand-alone ground for remand of an Accused person but it can be sufficient ground when considered with other circumstances such as the nature of the offence, the sentence likely to be imposed if conviction ensues, the propensity of the Accused to commit similar offence if there is evidence that the Accused has committed similar offence or offences previously.

The Court should also consider the necessity to protect society at large and whether sufficient bail conditions can be imposed to ensure the safety of the victim/ complainant and none intervention with or the witnesses.

Considering the circumstances of this case, conditions can be imposed to prevent the Accused from lawfully leaving the jurisdiction and to ensure their attendance in Court if they do not want to be remanded into custody.

The only understanding and sustainable ground for remand is their close proximity to the victim/ complainant and her family.

Consequently, I determine that bail should not be granted until the testimony of the complainant and her mother has been received by the Court. To that end, the Court is minded to revisit the trial dates with a view to take the evidence of the victim/ complainant in the shortest possible delay and bail shall then be granted without further application.

In the meantime, the Accused persons are remanded into custody to be periodically reviewed by the Court until the evidence of the victim and her mother has been received by the Court.

I ruled accordingly.

Signed, dated and delivered at Ile du Port on 23 October
2020.

Dodin J