

SUPREME COURT OF SEYCHELLES

Reportable

[2021] SCSC 627
XP147/2021

In the ex parte matter of:

EX PARTE: THE GOVERNMENT OF SEYCHELLES

Applicant

(rep. by Nissa Thompson)

Neutral Citation: *The Gov of Sey* (XP147/2021) [2021] SCSC 627 (01st October 2021)

Before: Burhan J

Summary: Proceeds of Crime Act Section 3 Application. Application granted

Heard: 23rd September 2021

Delivered: 01st October 2021

ORDER

a. I allow this application and issue an interim order under section 3 of POCA prohibiting the disposal of, dealing with or diminishing in value of the specified property set out Table to the Notice of Motion namely cash in a sum of SCR 155,147.00.

b I further appoint Inspector Terrence Roseline to be the Receiver of the said specified property and to hold the same as set out in paragraph [1] (3) herein until further orders from this Court.

c I further make order that a copy of this order be served on the Respondent Trevis Derrick Antoine at Pointe Aux Sel.

BURHAN J

[1] This is an ex-parte application under section 3 of the Proceeds of Crime (Civil Confiscation) Act 2008 (POCA) as amended. The Applicant seeks the following reliefs.

- (1) That this Ex-Parte application is listed and heard as a matter of extreme urgency as per rule 7 (1) of the Proceeds of Crime (Civil Confiscation) Act.*
- (2) For an Interim Order pursuant to section 3 of the Proceeds of Crime (Civil Confiscation) Act 2008 as amended prohibiting the Respondents or any other person specified in the order from disposing of or otherwise dealing with whole or any part of the property set out in table to the Notice of Motion;*
- (3) That on the making of an order under (1) above, Inspector Terence Roseline or such other person as this court shall direct be appointed as Receiver over all or part of the said property to manage, keep possession or dispose of, or otherwise deal with any other property in respect of which he is appointed in accordance with the courts directions, pursuant to section 8 of the Proceeds of Crime (Civil Confiscation) Act 2008 as amended.*
- (4) For an order providing for Notice of any such order to be given to the Respondents or any other person directed by the court;*
- (5) Such further or other order as the court shall deem just and proper in all circumstances in this case.*

- [2] I have considered the details contained in the affidavit dated 20th September 2021 of Inspector Terence Roseline attached to the Financial Crime Investigative Unit (FCIU). It is clear on perusal of the said affidavit and annexures attached therein that Inspector Terence Roseline has conducted detailed investigations in respect of the specified property namely the money as tabulated in the Table to the Notice of Motion totalling a sum of SCR 155,147.00 (one hundred and fifty five thousand, one hundred and forty seven)
- [3] Learned Counsel Ms Nissa Thompson moving for the aforementioned orders, relies on the contents of the affidavit filed by Inspector Terence Roseline dated 20th September 2021 in

order to establish that there are clearly reasonable grounds for suspecting that the said specified property referred to above taken into custody from Trevis Derrick Antoine holder of NIN 990-0416-1-1-53 (hereinafter referred to as the Respondent), constitutes benefit accrued from criminal conduct namely trafficking in controlled drugs and to establish further that the property in question set out in the Table of the Notice of Motion has a value of more than SCR 50, 000.

- [4] Learned Counsel Ms Thompson also referred to the facts stated in paragraph 7 of the affidavit that on the 7th day of September 2021 the Anti-Narcotics Bureau (ANB) received information that the Respondent had left his residence at Pointe Aux Sel driving a Hyundai H1 van bearing registration number S4096 and in possession of controlled drugs. The Respondent was driving the vehicle with three others in it. A search of the vehicle revealed a sum of SCR 5930, three black digital scales with traces of controlled drug. They had thereafter gone to the residence of the Respondent and conducted a search. One Brenda Harry Antoine was present. They had continued to find large sums of cash and the Financial Crime Investigation Unit was informed (FCIU) and officers from the Unit arrived on the scene. During the search the Respondent had stated that the sum of SCR 22,000/ found in multi coloured pouch belonged to one Ronando Esparon. The search continued and more money was found some digital scales, penknives with traces of dark substance were taken into custody. Thereafter the Respondent was arrested cash seized. The Respondent has a history of being arrested for possession of controlled drug from 2011 to 2021 with a conviction in 2012 in respect of Cannabis.
- [5] A breakdown of the money taken into custody is set out in paragraph 22 of the affidavit. It appears that the Respondent has failed to give a satisfactory explanation how he came into possession of the said money and the Applicant investigations are continuing in respect of same.
- [6] On perusal and analysis of the facts contained in the affidavit, this Court is satisfied that the Respondent was not generating income from any legal source.
- [7] I am therefore satisfied on the information contained in the affidavit that there are reasonable grounds to believe that the property set out in the Table to the Notice of Motion

namely cash in a sum of SCR 155,147.00 constitutes, directly or indirectly, benefit from criminal conduct. I am also satisfied that the value of the impugned property is not less than SCR 50, 000.

[8] I therefore make the following orders:

a I allow this application and issue an interim order under section 3 of POCA prohibiting the disposal of, dealing with or diminishing in value of the specified property set out Table to the Notice of Motion namely cash in a sum of SCR 155,147.00.

b I further appoint Inspector Terrence Roseline to be the Receiver of the said specified property and to hold the same as set out in paragraph [1] (3) herein until further orders from this Court.

c I further make order that a copy of this order be served on the Respondent Trevis Derrick Antoine at Pointe Aux Sel.

Signed, dated and delivered at Ile du Port on 01st October 2021.



M Burhan J