

IN THE SUPREME COURT OF SEYCHELLES

Reportable

[2021] SCSC ...
CO104/2021

In the matter between

THE REPUBLIC

(rep. by Ms. Luthina Monthy)

PROSECUTION

and

JAMES AZEMIA

(Mr. Basil Hoareau)

ACCUSED

Neutral Citation: *Rep v James Azemia (CO104/2021 [2021] SCSC*

Before: G Dodin

Heard:

Delivered: 18 November 2021

RULING

Dodin J

[1] The Accused James Frederick Azemia, aged 51 years old, stands charge with 5 counts of attempting to cause the death of another contrary to and punishable under Section 207(a) of the Penal Code, and 5 alternative counts of unlawfully and with intent to injure another, by causing poison to be taken by any person thereby endangering his life contrary to and punishable under Section 223 of the Penal Code.

[2] The incident occurred at Beau Vallon, Mahe on the 20th October 2021. Three persons were admitted to the intensive care unit and one was admitted to the male medical ward of the Seychelles Hospital, all in critical condition whilst a fifth man did not require medical assistance.

[3] Learned Counsel for the Republic moved the Court to remand the Accused into custody for the following reasons:

1. the seriousness of the offence. The offence of attempted murder carried a mandatory sentence of life imprisonment whilst the alternative counts of maliciously administering poison carry a mandatory sentence of 14 years imprisonment.
2. that there are reasonable grounds to believe that if released, the Accused is likely to abscond and not turn up for trial in view of the seriousness of the offences.
3. the police believe that if released on bail there is strong likelihood that the Accused may interfere with potential witnesses and temper with pertinent exhibits as investigation is still ongoing.
4. Police requires more time to have samples from exhibits collected to be sent for forensic analysis.
5. for the Accused's own protection in view that there has been threats from families of the victims.

[4] Learned Counsel for the Accused objected to the application arguing that all the grounds averred by the Prosecution are not enough to remand the Accused into custody. Learned Counsel submitted that:

1. seriousness of the offence is not a standalone ground for remand;
2. Article 18(7) of the constitution provides that there must be substantial grounds supported by facts that the Accused may abscond and vague a statement without factual basis is not sufficient.

3. On the ground of likely interference with potential witnesses, there must also be substantial ground with factual basis. What the Police believe is not important without facts supporting the same.
4. Collection and testing of exhibits are not grounds for remand under Article 18(7);
5. There are no factual support of the threats against the Accused.

[5] Learned Counsel submitted that bail is a right and remand is an exception to the right to bail. The Court can impose conditions to meet the exigencies of the case.

[6] I have considered the submissions of both learned counsel and studied the affidavit of CID Officer Frances Bamboche dated 3rd November 2021. There is no doubt that the offences with which the Accused has been charged are very serious in nature and might have resulted in multiple murders had there not been timely medical interventions.

[7] Whilst seriousness of the offence is not a standalone ground to remand an Accused into custody, when other circumstances surrounding the commission of the alleged offences are considered, such as the utilisation of a powerful arsenic (lannet) and the injury to the health and threat to the life of 4 innocent men are extremely serious issues to be considered.

[8] Consequently, although the other four grounds brought forth by the prosecution are not as strong as pointed out by learned counsel for the Accused, I am satisfied that it would not be prudent to release the Accused on bail at present in view of the circumstances of the commission of the offence.

[9] The Accused is therefore remanded into custody pending trial for the time being.

Signed, dated and delivered at Ile du Port on 18 November 2021.

G Dodin

Judge