

SUPREME COURT OF SEYCHELLES

Reportable
[2021] SCSC 801
FH52/2021

In the matter between:

THE ANTI-CORRUPTION COMMISSION
(rep. by Mr Anthony Juliette)

Applicant

and

MAURICE JEAN LEONARD LOUSTEAU-LALANNE
(rep. by Mr. B.Hoareau)

Suspect

Neutral Citation: The Anti-Corruption Commission v Maurice Lousteau Lalanne (FH53/2021)
[2021] SCSC 801 (24 November 2021)

Before: Govinden CJ

Summary: Bail denied; prima facie case for remand established ; offences serious ;
substantial grounds to suspect that accused may interfere with the evidence
and abscond

Heard: 24 November 2021

Delivered: 24 November 2021

ORDER

GOVINDEN CJ

The Applicant has proven that there is a *prima facie* case to detain the suspect in custody in pursuant to Section 101(1) of the Criminal procedure Code, herein after also referred to as “*the Code*”, read with Article 18(7) (b) and (c) of the Constitution.

GOVINDEN CJ

[1] This is an application made under Section 100(1) of the Code as read with Article 18 (7) of the Constitution. The Applicant is Patrick Humphrey an Officer of the Anti-

Corruption Commission, herein after also referred to as the ACCS. The Application is duly supported by the Affidavit of the Applicant.

- [2] The applicant avers that the nature of the offence that the suspect is suspected of committing is Money Laundering, contrary to Section 3(1) of the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act 2021.
- [3] The general nature of the offence put forth in support of this application can be summarised as follows; the anti-corruption investigation is concerned with an initial theft of \$50million arising from a loan/grant from Abu Dhabi state in 2002. Government records show that the funds were misappropriated and never included in the accounts of the Republic of Seychelles and as such were never available for their intended purpose which was to assist in the national balance of payment deficit.
- [4] The funds were deliberately misdirected to private company accounts and subsequently, we believe, used to purchase government assets in the form of the COSPROH hotels, privatised over the course of 2002-2005. Preliminary enquiries further shows that the funds used to purchase the hotels were again then misappropriated and removed from government accounts.
- [5] Over the course of the intervening 19 years there have been numerous transactions involving the misappropriated funds and the assets associated with them which, in accordance with the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act 2021, are likely money laundering offences.
- [6] The suspect was a co-director of the COSPROH
- [7] It is averred in the application that the suspect before the court appears to have appointed Mukesh Valabhji to a senior role at the COSPROH, a government owned entity, that was set up to manage government owned hotels. It appears that the suspect had entrusted the valuation and subsequent privatization to the same individual. No evidence, however,

exist, to show that appropriate valuations were completed by Valabhji prior to the sale of COSPROH's hotels but evidence has emerged that the offshore companies purchasing four of the hotels in this privatization included close and long standing associates of Valabhji.

- [8] The Application goes on to aver that the funds misappropriated from the Abu Dhabi grant eventually found its way to being used by Valabhji to purchase several hotels belonging to the COSPROH at under market values despite the fact that proper valuations would have proven their real values and that this was done with the knowledge and connivance of the suspect as a co-director of the COSPROH.
- [9] The Applicant has averred that he has so far carried out a number of investigation; however it avers that there are a number of other investigation which are still pending, which the ACCS states in its application.
- [10] The reasons for further holding being put forward includes the seriousness of the offences , with carries with it the maximum of 15 years; that the suspect might used his wealth and influence and abscond if released on bail; the weapons and ammunitions found at the premises of an associate highlight an organized enterprise that has the ability to threatened witnesses; that the suspect has access to the co- conspirators huge financial backing and no amount of surety would alleviate the flight risk and that the suspect if released would pause a threat to public order.
- [11] Learned counsel for the suspect disputed the fact that a prima facie case has been established against his client in that his client has given a statement to the investigators in which he has stated that he does not know a prominent acquaintance of Mukesh Valabhji, who purchased some properties of the COSPROH. At any rate he submitted that it was President Albert Rene who appointed Valabhji to be advisor of the company and not him as averred by the Applicant.

- [12] Thereafter, Learned counsel goes on to object to each and every averments in the different grounds put forth to justify the further detention of the suspect. He submitted again that they have been insufficiently particularised.
- [13] Having thoroughly analysed and scrutinized that facts and circumstances of this application as contained in the Application and affidavit and having heard the submissions of counsel of both the Applicant and the suspect, this court makes the following determinations;
- [14] As to the objection to the legality of the Application based on the fact that there is insufficient particulars in the Application to show the offences suspected of shows ongoing offences, being committed since 2002. I am satisfied that the Application and the affidavit in support taken as whole attest to this. It shows the continuity of the conduct of the parties that could bring it within the extensive definition of the offence of money Laundering under the 2020 Act. At any rate I am satisfied that at the time that the offence was committed to date the offence was known to law.
- [15] I have read the provision of the suspected offences against the suspect and I find that they are extremely serious; the of Money Laundering as suspected carries with it the maximum sentence of 15 years imprisonment.
- [16] The nature and facts of the offences that the suspect are suspected to have committed are also serious. It is alleged that he was one of two directors of the COSPROH. A parastatal organization wholly owned by the government of Seychelles and hence also owned by the people of Seychelles. Being in such a position of trust and authority it is further alleged that he helped facilitate the siphoning of funds misappropriated from the Abu Dhabi loan into the COSPROH and then out of that entity in attempts to whitewash the funds that was misappropriated in the 1st place , a company facing debt problem at the time. As a co-director he should have been in a position to know that the different financial transactions and commercial transactions being undertaken by the COSPROH in that regards that they were not legitimate. He should have signed or approved

financial transactions; attended board meetings and took board resolutions relating to the facts averred in the Applicants affidavit. This leads me to conclude that a prima facie case is established against the suspect in this case which shows his participation in the offences that he is suspected of. These funds should have ended in the coffers of the Government of Seychelles and assist in our national development, it did not. This aggravates the seriousness of the suspected offences as it's a huge sum of money; its alleged misappropriation affected the general well being of the society.

[17] Having been satisfied that the facts shows that a prima facie case is proven with respect to the suspected serious offences, I am convinced that there exist substantial grounds to suspect that the suspect may abscond the jurisdiction and therefore will defeat the due course of justice in this case if he is released on bail. He is now well aware, following his arrest, that the ACCS could possibly lay charges against him in this case. Something that might have been a novelty prior to his arrest. In the same vein I find as established that there are also exist substantial grounds for this court to believe that, if enlarged he would attempt to interfere with the investigation, which he now knows that he has a prime suspect and as a result also defeat the due course of justice in this case.

[18] For these reasons, I will grant the application and remand the suspect in custody. He would be brought to court on the 3rd of December at 2pm

[19] I want to emphasise that any determination of facts in this Ruling is done only for the purpose of this application form on a prima facie basis and that he do not consist of any determination of facts beyond a reasonable doubt, that can only be made at the trial stage.

Signed, dated and delivered at Ile du Port on 24 November 2021



R. Govinden
Chief Justice