

SUPREME COURT OF SEYCHELLES

Reportable
[2021] SCSC
CO28/2020..733

In the matter between:

THE REPUBLIC
(rep. by E Almeida)

and

DANIEL ANTOINE JUSTIN SINON
(rep. E Chetty)

Accused

733

Neutral Citation: *Republic v Daniel Antoine Justin Sinon* (CO 28/2020) [2021] SCSC (29th October 2021).

Before: Govinden CJ,

Summary: Trafficking by way of possession of a controlled drug with intent to traffic and ors - sentence

Heard: 5th October 2021

Delivered: 5th Novembrrt 2021

ORDER

SENTENCE

GOVINDEN CJ

[1] The convict is a resident of Cascade, Mahe, who on his own guilty plea, has been convicted of the following offences, contrary to the Misuse of Drugs Act 2016, namely:

COUNT 1

Statement of Offence

Trafficking by way of possession of a controlled drug with intent to traffic contrary to section 9(1) as read with Section 19 (1)(c) of the Misuse of Drugs Act, 2016 and punishable under Section 7(1) and Second Schedule of the Misuse of Drugs Act, 2016.

Particulars of Offence

Daniel Antoine Justin Sinon of Cascade, Mahe, on the 6th January, 2020, in the vicinity of Talbot, Cascade, Mahe was trafficking a controlled drug by virtue of being found in unlawful possession of a controlled drug namely Heroin (diamorphine) with a total net weight of 22.92 grams and a purity of 6.90 grams, giving rise to a rebuttable presumption of having possessed the said controlled drug with intent to traffic.

COUNT 2

Statement of offence

Possession of a controlled drug contrary to section 8 (1) of the Misuse of Drugs Act and punishable under the second Schedule of the Misuse of Drugs Act 2016.

Particulars of offence

Daniel, Antoine Justin Sinon of Cascade, Mahe on the 6th January, 2020, in the vicinity of Talbot Case, Mahe, was found in possession of a controlled drug, namely, cannabis herbal material total net weight of 0.62 grams.

COUNT 3

Statement of offence

Possession of a controlled drug contrary to section 8 (1) of the Misuse of Drugs Act and punishable under the second Schedule of the Misuse of Drugs Act 2016.

Particulars of offence

Daniel, Antoine Justin Sinon of Cascade, Mahe on the 6th January 2020, in the vicinity of Talbot Case, Mahe, was found in possession of a controlled drug, namely, cannabis herbal material total net weight of 0.70 grams.

[2] The facts of the case as read out by the Prosecution and admitted by the Defence are as follows;

On the 6th of January 2020, the ANB Officers were conducting patrol at Talbot Cascade where they spotted a group of men who noticed them and started running. One of the men, who was apprehended and later identified as Daniel Sinon, used his right hand and grabbed a yellow bag next to his feet and attempted to throw it away. The same bag was grabbed from him by the ANB Officers and contained the following:

- Cling film wrapping clear plastic containing substance.
- Cling film wrapping clear plastic containing substance.
- Cling film wrapping two pieces of clear plastic each containing substance.
- One black digital scale.
- One Mahe King cigarette box containing a piece of clean film wrapping black plastic containing substance.
- Piece of black plastic containing substance.
- SCR750, 000 cash.

[3] The convict was arrested and caution and further brought to his residence at Talbot Cascade where search was conducted. During the search, on the TV table, one plastic container containing two packets made of cling film each wrapped in dark substance, a gold coloured paper wrapping three pieces of cling film each wrapping herbal materials and one black digital scale were found and seized. The accused was spared the caution for the offence and the substances were later analysed where they were confirmed to contain heroin with a total net weight of 22.92 grams and a purity of 6.90 grams, cannabis herbal material with a net weight of 0.62 grams and cannabis raisin with a net weight of 0.70 grams.

[4] Learned Counsel for the convict moved the Court in mitigation to impose a non- custodial sentence on the convict for the following reasons, which he stated as follows;

“My Lord I wish to bring to the Court’s attention that the convict has not wasted the Court’s time, he has saved valuable resources and time of this Honorable Court. His a first time offender and my Lord he is a young man, 32 years old, he is also self-employed and by pleading guilty my Lord, he has shown remorse and the willingness to reform from the crime he has committed. Finally, my Lord I would wish for the Court to consider when sentencing to be lenient, adopt the practices of this Court and I would request a non- custodial sentence my Lord for the accused as the convict and in conclusion for the Court to also consider Section 39 of MODA”.

[5] In passing the sentence I take into consideration the provision of Section 47(4) of the Misuse of Drug’s Act which provides that:-

“In sentencing a person convicted of an offence under Section 8 of this Act the Court shall not imposed a sentence of imprisonment unless satisfied that a non- custodial sentence is in appropriate in all the circumstances.”

[6] I also take into consideration the sentences passed by this court in previous cases of such a nature, especially those involving similar small quantities of the controlled drug heroin and cannabis herbal material and the plea in mitigation made by the learned defence counsel.

[7] Having done so I find it appropriate to sentence the convict as follows;

- (i) I impose a fine of RS 5.000/- on count 1;
- (ii) I impose a fine of RS 5.000/-on count 2 and
- (iii) I impose a fine of RS 5.000/-on count 3

[8] The sentences shall take effect consecutively and he shall pay the total fine of RS 15,000 by the 28th of December 2021. In default of such payment, the convict is to serve a term of 6 months imprisonment.

- [9] Time spent on remand is to be taken into consideration if the defaulting sentence is to be activated and the convict would be entitled to remission.
- [10] The convict has a right of appeal against both the conviction and sentence in this case and all bail conditions prior to impose by this court shall lapse.
- [11] The case is to be mentioned before this court on the 28th of December 2021 at 9 am in order to ascertain fine payments.

Signed, dated and delivered at Ile du Port on the 5th November 2021.



Govinden C J