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**SUPREME COURT OF SEYCHELLES**

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Reportable  
[2022] SCSC 1014  
CO52/2022

In the matter between:

**THE REPUBLIC**

*(Rep. by Mr Kumar for the Republic)*

**Republic**

and

**MARKUS LOUISE**

*(Present - Unrepresented)*

**Accused**

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**Neutral Citation:** *Republic vs Louise* (CO52/2022) [2022] SCSC 1014 (11<sup>th</sup> November 2022)

**Before:** D. Esparon, J

**Heard:** 11<sup>th</sup> November 2022

**Delivered:** 11<sup>th</sup> November 2022

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**RULING**

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**D. Esparon, J**

- [1] This is an application for remand of the Accused person pursuant to Section 179 of the Criminal Procedure Code as read with Article 18 (7) of the constitution.
- [2] The Accused has been charged with the offence of attempt to Murder contrary to and punishable under Section 207 (a) of the Penal Code. The particulars of the offence is that he attempted unlawfully to cause the death of Mr Danny Johnas Pierre 52 year old.
- [3] The second Count he is charged with the offence of act intended to cause grievous harm, contrary and punishable under Section 219 (a) of the Penal Code.
- [4] The Particulars, of the offence are as follows, unlawfully did harm on the person namely Mr Danny Johnas Pierre causing multiple external and internal injuries into the body of the said Danny Johnas Pierre by an act of stabbing using a knife.

- [5] The notice of motion is supported by the affidavit of Detective Ms Martina Dugasse who avers in her affidavit that the victim Mr Danny Johnas Pierre is an employee of the night shelter, whereby the Accused was placed there to reside there since he has been deserted by his own family due to an allegation by his family that he has an arrogant attitude towards the family members and others in the community.
- [6] During the stay at the Night Shelter, the Accused developed differences with the victim, which obviously the victim tells the Accused to behave properly with others and to follow the rules of the Night Shelter.
- [7] On the 28<sup>th</sup> of October 2022, at around 7 am, the Accused started to have a confrontation with the victim with abusive language and the victim reported this incident to the Officer in Charge of the Night Shelter. The victim was advised to make a complaint to the Police.
- [8] At Around 8 am after completing his duties, the victim had gone towards the car park of the Night Shelter, when he realised someone was running behind his back and when he turned around he saw the Accused running towards him with knives in both hands.
- [9] At that point in time the Accused started stabbing the victim continuously on the back side of his body and the right side of his arm.
- [10] It is alleged that the victim tried his level best to defend himself from the attack of the Accused and the people present at the scene came forward to rescue the victim from the accused.
- [11] The victim was transferred to the Hospital where he received immediate treatment since he was bleeding heavily at the scene due to multiple injuries sustained by him in this attack.
- [12] The deponent also avers that the Accused was arrested at the scene by the Police when he was trying to run away over there on the same day at around 8.25 hours, on the 28<sup>th</sup> of October 2022.
- [13] Based on the above averments, the Republic is moving for the Accused to be remanded in custody on the following grounds;

- (a) The alleged offences committed by him using dangerous weapons in public which amplifies the seriousness of the offence.
  - (b) He became a threat to the vulnerable people in the community, since he has been deserted by his own family due to his arrogant attitude towards the family members and others in the community.
  - (c) To ensure the protection of the victim connected to this case and to maintain law and order in general in the community.
  - (d) The offences committed are of serious nature which carries a maximum sentence of life imprisonment.
  - (e) That there are substantial grounds to believe that if the Accused person is not remanded and released on bail, he may commit similar offences on the vulnerable people in the community while on bail.
- [14] The Accused which was unrepresented at the time, submitted to the Court that the authorities revealed certain personal issues, which is unlawful and that each time he talks to the victim who tells him to be quiet. As regards to the allegation that people had to intervene to stop him from further assaulting the victim or stabbing the victim, he said that he personally desisted by himself to avoid staring of passer-by since people were passing by and looking.
- [15] He also denies that he was attempting to run away from the Police, since the Police were only passer-by and they intervened in the matter, when they saw what was happening.
- [16] I have considered the pleadings in the matter, the affidavit and also the submissions of counsel for the Republic. I have also considered the submissions of the accused in the dock and this Court first and foremost reminds itself of the provisions of Article 19 (2) of the Constitution which provides that an Accused person is innocent until he is proven guilty.
- [17] Article 18 (7) of the Constitution provides for derogations to the right of liberty of the Accused person, that is on specific grounds. This Court further reiterates that the principle



down in Article 18(7) of the Constitution is that the Accused has a right to bail which is the Rule and the exception is his remand.

- [18] In order to consider whether the grounds have been substantiated in the application for remand, this Court has to first determine as to whether there is a *prima facie* case against the Accused person as decided in the case of *Roy Beharry vs Republic SCA 11 of 2009*.
- [19] Ex-Facie the Affidavit, this Court finds that the Applicant which is the Republic in this matter has established a *prima facie* case against the accused person of which the standard of proof for a *prima facie* case is not that of beyond reasonable doubt but it is a lot much lower than beyond reasonable doubt. Since at this stage, the Republic does not have to prove whether the Accused is guilty or not guilty in relation to the charges as levelled against him.
- [20] I have considered the grounds upon which the Republic is relying upon to move the Court to remand the Accused person in custody. This Court finds that the charges of which the Accused person stands charged namely the offence of Attempted murder, the offence of Act intended to cause grievous harm is of serious in nature since both carries a maximum sentence of life imprisonment in the event of conviction.
- [21] Secondly this Court finds that the offence is serious in view of the fact that in the manner that the offence was committed by using a dangerous weapon such as a knife.
- [22] Furthermore, this Court finds that there are substantial grounds to believe that if the Accused person is not remanded and is released on bail he may commit similar offences whilst on bail in view of the fact that it is alleged in the affidavit that the Accused was arrogant and abusive in nature while residing with his family and to other members of the community.
- [23] I say that bearing in mind that as a Judge sitting in a Court of law that I do warn myself when hearing the evidence in the main case. I will hence disregard such allegations as family members averring that the Accused is arrogant and abusive if not proved before the court and also determine on the relevancy at that particular time and I warn myself of the

prejudice that will be caused to the accused person at the time of the hearing of the case itself, if I do not hear these factors in mind.

[24] This Court also finds that although it has not been pleaded as a grounds in the affidavit, but *ex-facie* the affidavit, this Court finds that it has been sufficiently pleaded at paragraph 2 of the affidavit to enable the Court to make a finding that there are reasonable grounds to believe that the Accused may not turn up for his trial and abscond since it is averred in paragraph 2 of the affidavit of the deponent that the Accused person is now residing at the Night Shelter since his family has rejected him and now he is homeless with no fixed place of abode. Hence this Court finds that there are reasonable grounds to believe that he may not turn up for trial and he may abscond.

[25] Furthermore based on the averments of the deponent in paragraph 2 of the affidavit that the Accused was trying to runaway over there on the same day from the Police, I find that the prosecution has adequately substantiated by the facts averred in the affidavit that there are reasonable grounds to believe that the Accused may not turn up for trial, and may abscond.

[26] Furthermore in view of the violent nature of the allege commission of the offence, I also find on the facts that there are reasonable grounds to believe that in the event the Accused is released on bail, he may interfere with witnesses namely the victim in the case.

[27] Hence for the above reasons, this Court will remand the Accused person in custody.

Signed, dated and delivered at Ile du Port on 11<sup>th</sup> November 2022.



D. Esparon, J

