

SUPREME COURT OF SEYCHELLES

Reportable

[2022] SCSC **1081**
CO 50/2022

In the matter between:

THE REPUBLIC
(rep. by Corrine Rose)

Republic

and

GERMAN AUGUSTO BROOKS DIXON
(rep. by Vanessa Gill)

1st Accused

RICKY FREDDY JEMMY SUZETTE
(rep. by Daniel Cesar)

2nd Accused

Neutral Citation: *Republic v Dixon & Or* (CO 50/2022) [2022] SCSC **1081** (09 December 2022)

Before: Burhan J

Summary: Importation of a Controlled Drug – Conspiracy – Aiding and abetting

Heard: 30 November 2022

Delivered: 09 December 2022

ORDER

The application for bail declined.

RULING

BURHAN J

[1] The 1st and 2nd accused in this case has been charged with the following offences;

Count 1

Importation of a controlled drug contrary to Section 5 of the Misuse of Drugs Act, 2016 and punishable under the Second Schedule as read with Section 48 (1) (a) & (b) of the Misuse of Drugs Act, 2016.

German Augusto Brooks Dixon, 42 years old, a Nicaraguan national, holder of passport number C02689187 on the 4th February 2021 imported into Seychelles a controlled drug namely Cocaine with a total net weight of 4164.50 grams, by causing the said controlled drug to be imported into Seychelles through his luggage aboard Flight EK705 from Dubai after landing at the Seychelles International Airport.

Count 2

Conspiracy to commit the offence of trafficking in a controlled drug, contrary to Section 16 (a) & Section 7 (1) of the Misuse of Drugs Act, 2016 and punishable under Section 7 (1) read with Section 48 (1) (b) and Second Schedule of the Misuse of Drugs Act, 2016.

Particulars of offence

German Augusto Brooks Dixon, 42 years old, a Nicaraguan national, holder of passport number C02689187, Ricky Freddy Jemmy Suzette, 33 years old, NIN 992-0458-1-1-39 resident of Roche Caiman, Mahe, and with a person known to the Republic on or before the 4th October 2022 to the 7th October 2022 agreed with one another, that a course of conduct shall be pursued which, if pursued, will necessarily amount to or involve the commission of an offence of Trafficking in a controlled drug namely Cocaine having a total weight of 4164.50 grams.

Count 3

Statement of Offence

Aiding and abetting the trafficking of a controlled drug contrary to Section 15 (1) (a) & (c) read with Section 7 (1) & (2) of the Misuse of Drugs Act, 2016 and punishable under Section 7 (1) read with Section 48 (1) (b) and Second Schedule of the said Act.

Particulars of Offence

Ricky Freddy Jemmy Suzette, 33 years old, NIN 992-0458-1-1-39 resident of Roche Caiman, Mahe, aided and abetted German Augusto Brooks Dixon, 42 years old, a Nicaraguan national, holder passport number C02689187, to traffic in a controlled drug namely Cocaine having a total net weight of 4164.50 grams by doing or offering to do any preparatory acts for transporting and delivering by going to collect the said controlled drug at Glacis who was in the possession of the said German Augusto Brooks Dixon.

[2] I have considered the submissions by learned Counsel Mr Daniel Cesar on behalf of the 2nd accused in respect of bail.

[3] The main grounds urged by learned Counsel accused are that:

- a) the 2nd accused was merely a pirate taxi driver who had hired a car for that day as his car was in the garage.
- b) he had acted on the instructions of a passenger. He had cooperated with the police at the time of arrest and told the name of the passenger where he picked him up from and where he had dropped him.
- c) the reason why the accused did not stop when chased was because the chasers were in an unmarked vehicle.
- d) that he has a pregnant wife, 2 children and a sick mother.

[4] I have also considered the objections of State Counsel Ms Coreen on behalf of the prosecution in respect of the seriousness of the offence with which the 2nd accused is charged with. The charge against the 2nd accused is one of aiding and abetting the trafficking of a large quantity of a controlled drug 4164.50 grams of a Class A controlled drug Cocaine which was imported into the Seychelles by the 1st accused. This charge attracts a maximum of life imprisonment on conviction thereby indicating the seriousness of the charge with which the 2nd accused is charged. The drug is a Class A drug and the quantity is large which further aggravates the seriousness of the charges against 2nd the accused.

- [5] The prosecution draws the attention of Court that the accused attempted to escape in the vehicle being driven by him and the accused admits he did not stop but due to the fact the vehicle of the Officers giving chase was unmarked. It is too premature to decide on this issue but the 2nd accused does not deny he was driving the vehicle at the time of the controlled delivery which vehicle came according to the police officers to collect the controlled drug imported into the country by the 1st accused.
- [6] The fact that the 2nd accused divulged to the police the identity of the person with him (his passenger), who was with him at the time of the controlled delivery of the drugs has to be first established by further investigation. It appears the investigations are still ongoing and as the person identified has not been arrested the truth of his disclosure cannot be established at this stage, therefore no benefit can accrue to the 2nd accused at present.
- [7] This Court is aware of the right to bail under Article 18 of the Constitution but the said right is not an absolute right and subject to derogations contained in Article 18 (7) of the Constitution. The fact that the Constitution provides that the accused is innocent until proven guilty does not preclude a Court from remanding persons into custody pending trial, provided that there exist circumstances referred to in Article 18 (7) of the Constitution.
- [8] When one considers the seriousness of the charges and another principal accused who participated in the controlled delivery still remains at large, the release of the 2nd accused who is known to the absconding accused may interfere and obstruct further investigations especially in respect of the absconding accused.
- [9] For the aforementioned reasons, I proceed to decline the application for bail in respect of the accused and am satisfied on consideration of all the above facts that substantial grounds exist for the further remand of the accused into custody.

[10] The application for bail is declined. The need to consider stringent conditions therefore does not arise.

Signed, dated and delivered at Ile du Port on 09 December 2022

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Burhan J