

SUPREME COURT OF SEYCHELLES

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**Reportable**  
[2022] SCSC 219  
CO11/2022

In the matter between:

**THE REPUBLIC**  
(Represented by Ms. Nissa Thompson)

vs

**JOHANESS LAFORTUNE**  
(Represented by Mr. Daniel Cesar)

**1<sup>st</sup> Accused**

**RICKY SHANE NIOZE**  
(Represented by Mr. Anthony Juliette)

**2<sup>nd</sup> Accused**

**NICHOL STEVEN NIOZE**  
(Represented by Mr. Anthony Juliette)

**3<sup>rd</sup> Accused**

**NADIA MIRIAM CONFIANCE**  
(Represented by Daniel Cesar)

**4<sup>th</sup> Accused**

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CM36/2022

(Arising in CO11/2022)

And, in the matter between:

**THE REPUBLIC**  
(Represented by Ms. Nissa Thompson)

**Applicant**

and

**JOHANESS LAFORTUNE**  
(Represented by Mrs. Alexia Amesbury  
standing in for Mr. Daniel Cesar)

**1<sup>st</sup> Respondent**

**NADIA MIRIAM CONFIANCE**  
(Represented by Ms. Karen Domingue)

**2<sup>nd</sup> Respondent**

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**Neutral Citation:** *Republic v. Lafortune & Ors* (CM36/2022 (arising in CO11/2022)

[2022] SCSC 219

(08 March 2022)

**Before:** B. Adeline, Judge

**Summary:** Application to remand the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent in police custody – Section 179 of the Criminal Procedure Code – Application is denied, and the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent are remanded on bail on strict bail conditions.

**Heard:** 01 March 2022

**Delivered:** 08 March 2022

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## RULING

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### **B. Adeline, J**

[1] As per a formal charge sheet pertaining to CB84/02/22 Perseverance PS, filed in Court on the 28<sup>th</sup> February 2022, one Johaness Lafortune of Petit-Paris, Mahe, Seychelles, Ricky, Shane, Nioze also of Petit-Paris, Mahe, Seychelles, Nichol, Steven Nioze of Mont-Fleuri, Mahe, Seychelles and Nadia, Miriam, Confiance of Perseverance, Mahe, Seychelles are jointly charged before this Court with different offences most of which are felonies.

[2] By an Order by consent made by this Court on the 28<sup>th</sup> February 2022, vide, between the Republic and Ricky, Shane, Nioze (“the 2<sup>nd</sup> accused”) and Nichol, Steven, Nioze (“the 3<sup>rd</sup> accused”), both represented by Counsel, both were remanded on strict bail conditions after the Prosecution had indicated, that they will not object to them being released on strict bail conditions.

[3] In accordance with Section 179 of the Criminal Procedure Code, read with Article 18 (1) of the Constitution, the Prosecution now files this application by way of Notice of Motion supported by an affidavit as CM36/2022, which affidavit is sworn by the Investigating Officer of the alleged offences, one detective Corporal (“CPL”) Samia Lafleur of the Criminal Investigation Division (“the CID”) of the Police Force, and is based at the Anse Etoile / Perseverance Region. By their application, an Order of this Court is being sought to remand in police custody, Johaness Lafortune, a 26 year old male Police Officer, (“the 1<sup>st</sup> accused / 1<sup>st</sup> respondent”) and Nadia, Miriam, Confiance, a 47 year old female Police Officer (“the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent”).

[4] The 1<sup>st</sup> and 4<sup>th</sup> accused, together with Ricky, Shane, Nioze (“the 2<sup>nd</sup> accused”) and Nichol, Steven, Nioze (“the 3<sup>rd</sup> accused”) are jointly charged ( count 2) with one Count of

conspiracy to commit a felony, namely, theft contrary to Section 381 of the Penal Code and punishable under Section 381 of the Penal Code.

[5] The Particulars of the offence in the formal charge sheet pertaining to the charge are as follows;

“Johaness Lafortune of Petit-Paris, Mahe, Ricky Nioze of Petit-Paris, Mahe, Nichol Nioze of Mont-Fleuri, Mahe and Nadia Confiance of Perseverance 2, on or around the 14<sup>th</sup> day of February 2022, conspired with one another to commit a felony, namely, theft from a motor vehicle make Kia Rio, colour white, bearing registration number S2826, belonging to Richael Molle of Perseverance, which was parked outside flat S4-S5 at Perseverance 2, a sum of cash amounting to SCR 40, 000/- being the property of La Belle Car Hire owned / represented by Virat Udwadia”.

[6] The 1<sup>st</sup> and 4<sup>th</sup> Accused are also charged with one count of Counselling or Procuring another person to commit a felony, namely, theft contrary to Section 22 (d) as read with Section 253 and punishable under Section 260 of the Penal Code (Count 3).

[7] The particulars of the offence in the formal charge sheet pertaining to this charge are as follows;

“Johaness Lafortune of Petit-Paris, Mahe and Nadia Confiance of Perseverance 2, on or around the 14<sup>th</sup> day of February 2022, counselled or procured Ricky Nioze of Petit-Paris, Mahe and Nichol Nioze of Mont-Fleuri, Mahe to commit a felony, namely, theft from a motor vehicle make Kia Rio, colour white, bearing registration number S2826, belonging to Richael Molle of Perseverance, which was parked outside flat S4-S5 at Perseverance 2, by way of forcing open and denting the driver’s door, and inside the atmospheric

shelf scratched and dented, glove box handle broken to the value SCR 7, 989.91”.

[8] Succinctly, the facts of the Prosecution’s case for remand of the 1<sup>st</sup> accused / 1<sup>st</sup> respondent, and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent as deponed by CPL Samia Lafleur, are, that on the 14<sup>th</sup> February, 2022 at 0309 hours, the Police received a telephone call from one Petra Agathine of Perseverance 2 who stated, that someone had come to her residence and broken into a vehicle, and that she is requesting for police assistance. In response to the request, woman police constable (“PC”) Santache and other team members, proceeded to the scene where the incident allegedly happened. When they arrived at the scene at house No 44-65, they were met by Petra Agathine who told them that her sister, Andriana Pool, had heard someone breaking a motor vehicle, a white Kia Rio, bearing licence number plate S2826 belonging to one Richael Molle, a 22 year old Sales Agent of Perseverance.

[9] The alleged victim of the incident, Richael Molle, after being informed of the incident, proceeded to look at his vehicle. He saw two men in his motor vehicle, S2826. One was wearing a black jacket, the other a green jacket and a mask. Richael Molle screamed at them and the two men ran away heading in the direction of the condominium close to the Family Hospital. It is deponed by CPL Lafleur, that Richael Molle and his sister Valencia, got into motor vehicle S32372, a white Hyundai Greta. Driven by Richael Molle, motor vehicle S32372 followed the two men to try to identify them. On their way, Richael Molle and his sister Valencia, came across a white Hyundai Grand i10 bearing registration number GS36149 written on it the phrase “Mont-Fleuri Police Station vehicle”.

[10] They believed that the car could have picked up the two men. It is the deposition of the CPL Lafleur, that the police vehicle was being driven away from a bush near the vicinity of the condominium. Richael Molle, whose sister Valencia was still a

passenger in the car, followed the police car as the Police car headed towards the east of Mahe. Upon reaching Roche Caiman, one of the two men was seen getting out of the police car and running towards the Plaisance Secondary School as he jumped over the boundary wall there. The Police car then continued its journey as vehicle S32372, driven by Richael Molle followed it. Upon reaching Talbot, Cascade, the Police car disappeared and Richael Molle lost sight of it.

[11] On the same day, the 14<sup>th</sup> February 2022, Richael Molle inspected his white Kia Rio registration number S2826, and noticed, that the car was damaged. He also discovered that the sum of SCR 40, 000/- that was in a small cross bag marked “Nike” in the boot of the car had gone missing which he thought had been stolen. As per the deposition of CPL Lafleur, Richael Molle was unable to identify the two men because although there were CCTV cameras at the vicinity of the scene where the alleged theft took place, they had been covered with tissues. The driver of the Police car was identified by Richael Molle and his sister, as Johanness Lafortune, the 1<sup>st</sup> accused / 1<sup>st</sup> respondent.

[12] It is deponed by CPL Lafleur, that examination on vehicle S2826 belonging to Richael Molle was carried out by woman Police Constable (“WPC”) Girra, Moustache. Her findings, were that the driver’s door had been forced open, and that it was dented and slightly opened. The atmospheric shelf was scratched and dented, the glove box handle was broken and found on the driver’s seat. WPC Moustache also found the handle of a screw driver on the ground, the sensor light at the scene of the incident covered with a small towel, and the camera on the wall covered with tissues.

[13] It is an averment in CPL Lafleur’s affidavit as part of her deposition, that on the same day, the 14<sup>th</sup> February 2022, the 1<sup>st</sup> accused / 1<sup>st</sup> respondent was arrested for the offence of stealing from vehicle and damaging property. Following his arrest, his mobile phone was confiscated by the police and handed over to SSCRB for digital

extractions. On the 17<sup>th</sup> February 2022, the Police received the results of the preliminary digital extractions, which showed, that there have been numerous exchanges of text messages on the 14<sup>th</sup> February, 2022 between the 1<sup>st</sup> accused / 1<sup>st</sup> respondent, the 2<sup>nd</sup> accused and the 3<sup>rd</sup> accused. CPL Lafleur deponed, that the contents of these text messages show that they were planning and organising to steal from motor vehicle S2826 owned by Richael Molle of Perseverance who has a concubinage relationship with the daughter of the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent. According to CPL Lafleur's deposition, it is shown from the extractions of the text messages, that the 2<sup>nd</sup> accused did tell the 1<sup>st</sup> accused / 1<sup>st</sup> respondent to bring mask, gloves and tissues.

[14] Following receipt of that vital piece of information, on the very same day, the 2<sup>nd</sup> accused was arrested, cautioned and interviewed in respect of several offences connected to the incident. In an interview, followed by a written statement given to the Police by the 2<sup>nd</sup> accused, he stated, that he was approached by the 1<sup>st</sup> accused / 1<sup>st</sup> respondent who told him that he and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent were organising and planning to steal from Richael Molle's car, and was asked whether he was interested to join them. That he then proposed that the 3<sup>rd</sup> Accused be brought on board, and they all agreed to take part in the theft.

[15] It is deponed by CPL Lafleur, that the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent, is a Police Officer who is attached to the Mont-Fleuri Police Station. On the 13<sup>th</sup> February 2022, she was on duty from 1900 hours to 0800 hours the following day 14<sup>th</sup> February 2022. On duty on that particular day, the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent was posted on sentry duties at the mortuary at the Seychelles Hospital. It happened, that whilst on duty, she was in constant contact with the 1<sup>st</sup> accused / 1<sup>st</sup> respondent by way of text messages. At around 2030 hours to 2100 hours, the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent left her post and went to her residence at Perseverance where she later participated in the commission

of the theft from vehicle S2826. The 4<sup>th</sup> accused / 2<sup>nd</sup> respondent was later arrested, cautioned and interviewed.

[16] It is also deponed by CPL Lafleur, that during the course of police investigation into the alleged offence of stealing from vehicle, they obtained credible information, that the mobile phone of the 2<sup>nd</sup> accused was being kept in a locker at the Mont-Fleuri Police Station allocated to the 1<sup>st</sup> accused / 1<sup>st</sup> respondent. When CID Officers proceeded to examine the lockers and to retrieve the mobile phone at the Mont-Fleuri Police Station, they found that three of the lockers close to the one allocated to the 1<sup>st</sup> accused / 1<sup>st</sup> respondent had been broken into. The Police succeeded to retrieve the 2<sup>nd</sup> accused's mobile phone from one of the lockers which on the 17<sup>th</sup> February 2022, the 2<sup>nd</sup> accused identified as his mobile phone.

[17] CPL Lafleur deponed, that the investigation into the alleged offences allegedly committed by the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> accused were well organised by the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent, both of whom are law enforcement police officers who at the time of the commission of the offences were on duty and in police uniform. She added, that they effectively colluded with the 3<sup>rd</sup> accused who is a past convict to commit the offences.

[18] As per CPL Lafleur's deposition, the 3<sup>rd</sup> accused was arrested on the 24<sup>th</sup> February 2022. He was cautioned following which he gave a written statement to the Police in which he stated, that he owes the 1<sup>st</sup> accused / 1<sup>st</sup> respondent SCR 80, 000/- since 2021 following a drugs transaction. According to the 3<sup>rd</sup> accused, he has been under constant threats from the 1<sup>st</sup> accused / 1<sup>st</sup> respondent who had been putting a lot of pressure on him to steal drugs from the house of the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent at Perseverance, and that on three occasions he has attempted to do it but failed.

[19] CPL Lafleur also deponed, that the 3<sup>rd</sup> accused, also stated, that in the morning of the 14<sup>th</sup> February 2022, the 1<sup>st</sup> accused / 1<sup>st</sup> respondent contacted him 14 times to ask him

to go and steal a large sum of money at the house of the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent at Perseverance, and that it was the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent who provided them with information as to where the money was exactly being stored in motor vehicle car S2826.

[20] In her oral submission, *inter alia*, learned Counsel for the Republic emphasised, that based on the averments as deponed by CPL Lafleur in her affidavit in support of the motion, there is a strong case to remand the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent in police custody. Learned Counsel submitted, that in the instant case, the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent are both police officers who conspired, procured and counselled two civilians, the 2<sup>nd</sup> and 3<sup>rd</sup> accused, to engage in the commission of the offences of which they have been charged before this Court.

[21] Learned Counsel also submitted, that the two offences of which the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent have been charged, namely, conspiracy to commit a felony, namely theft, and counselling or procuring another person to commit a felony, namely theft, are serious in nature, both carrying a maximum prison sentence of seven years. Learned Counsel stated, that the commission of the alleged offences of which the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent have been charged, are aggravated in nature given that they are “police officers that should have been acting in the public trust to protect and enforce the law”. Learned Counsel referred the Court to paragraph 9 of CPL Lafleur’s affidavit where she avers, that the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent was on police duty on the 13<sup>th</sup> February, 2022 performing sentry duties at the Mortuary at the Victoria Hospital when she communicated with the 1<sup>st</sup> accused / 1<sup>st</sup> respondent by way of text messages about their organised plan to commit these offences, and then the fact, that she left her post whilst on duty to go to her residence at Perseverance where the alleged offences were allegedly committed.

[22] Learned Counsel submitted, that the Prosecution has substantial ground to believe, that if the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent are released on bail, they will interfere with witnesses, and therefore obstruct the investigation, and in the process, obstruct the course of justice. Learned Counsel failed, however, to state what those substantial grounds are that led to the Prosecution’s belief that if the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent are released on bail



they would interfere with witnesses. Furthermore, same could be said about the 2<sup>nd</sup> and 3<sup>rd</sup> accused who have been remanded on bail on strict bail conditions given that the commission of the offences by them was a collective designed although they could have been orchestrated by the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent.

[23] Learned Counsel also submitted, that there are substantial ground to believe, that if the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent are released on bail, there is a great likelihood that they will temper with exhibits and dispose of the exhibits. Again, learned Counsel failed to disclose what these substantial grounds are that led to the Prosecution having such belief. Surely, on the facts of this case, this cannot be a good reason to deprive someone of his liberty by remanding him in police custody because of the likelihood that he would temper and dispose of the exhibits. I am sure, that the police can take steps to have the exhibits stored in a place where the 1<sup>st</sup> accused / 1<sup>st</sup> respondent cannot have access to them although they are police officers. It is also an option available to the police, to take appropriate disciplinary actions against the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent, and to employ the right disciplinary measures to deprive them access with the exhibits.

[24] In reply to the application to remand the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent in police custody, learned Counsels representing them, submitted, that there is no legal basis to remand them in police custody, more so, given that the 2<sup>nd</sup> and 3<sup>rd</sup> accused have been remanded to conditional bail, having allegedly committed the offences of which they have been charged, which are as serious as those allegedly committed by the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent. Learned Counsel also submitted, that at this stage of the proceedings when bail is in issue, the fact that the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent are police officers, cannot have any bearing on the decision whether to grant bail or not. Learned Counsel stated, that if, because they are police officers, the alleged offences committed by them are aggravated, that would be a matter to take into account if they are convicted of the offences of which they have been charged when the case will be at sentencing stage.

[25] Learned Counsel also pointed out what they called the discriminatory approach of the Prosecution moving the Court to remand the 1<sup>st</sup> Accused / 1<sup>st</sup> Respondent in police custody when the 2<sup>nd</sup> Accused and 3<sup>rd</sup> Accused have been allowed to go scot free although the evidence against them in respect of the offences they have allegedly

committed are very strong, including their own confession, and CCTV footage for example. Learned Counsel submitted, that the averments made by CPL Lafleur in her affidavit in support of the motion shows, that there are contradictions, and that they do not establish a *prima facie* case against the 1<sup>st</sup> Accused / 1<sup>st</sup> Respondent and the 4<sup>th</sup> Accused / 2<sup>nd</sup> Respondent.

[26] Whilst for most part of their submission, learned defence Counsels for the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent adopted each other's submission, learned Counsel for the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent submitted, that the averments in the affidavit which the Prosecution seek to rely upon to remand her client in police custody, provides no real evidence that will justify remanding of her client. Learned Counsel explained, that although the averments seek to implicate her client in the commission of the offences, there is no real and strong evidence against her, and that the Court should treat whatever the co-accused have said to the police against her client with caution. She explained, for example, that the Court has not been provided with the extracted text messages as has been averred by CPL Lafleur in her affidavit.

[27] Learned Counsel also submitted, that reliance on the broken lockers at the Mont-Fleuri Police Station to remand her client, on the basis that she would interfere with the investigation if she is remanded on bail, when her client has nothing to do with the broken lockers, and she doesn't even have a locker at the Mont-Fleuri Police Station, is simply an attempt by the Prosecution to persuade the Court to remand her client in police custody. Learned Counsel stated, that all that have been averred in the affidavit in support of the motion are "presumptions, assumptions", and there is no real evidence in any way linking her client with the commission of these offences, and that all that the Prosecution have said about her client being a Police enforcement officer who has colluded with an ex-convict to commit the offences alleged, are just "blank statements".

[28] The grant or refusal to grant bail, lies within the discretion of the Court. The grant or denial is determined by way of application of the law, and to a large extent, by the facts and circumstances of each particular case. But at the same time, the right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the state of the burden of keeping the accused pending the trial, and at the same time, to keep the accused constructively in the custody of the

Court whether before or after conviction, to ensure that he will submit to the jurisdiction of the Court and be in attendance thereon, whenever his presence is required.

[29] Therefore, an application of this nature, seeking to have the accused / respondents remanded in police custody, strikes at the core of most important Constitutional right of every person, which is the right to liberty guaranteed under Article 18 (1) of the Constitution. This right is afforded to every person whether the person is a police officer, a banker, a labourer, a teacher and so forth. There are a plethora of rulings, including the ruling in *Esparon v. The Republic* SCA1 of 2014, where the Court has emphasised, that such right to liberty can only be interfered with in exceptional circumstances, where the Prosecution has satisfied the Court that there are substantial grounds to remand the accused in police custody.

[30] At this junction, I am mindful of Article 19 (2) of the Constitution which says, that “every person who is charged with an offence is innocent until the person is proved guilty or has pleaded guilty”. That is the premise from which this application for remand should be decided in the light of the materials laid before this Court, particularly, the supporting affidavit to the motion.

[31] It is therefore, imperative for the Prosecution, when relying on the averments in the supporting affidavit to move for remand of the accused in police custody, to establish a *prima facie* case the existence of the conditions under Article 18 (7) (a) to (e) of the Constitution if the application is to be successful. This is in line with the requirements of the guidelines spelt out in *Beharry v. The Republic* SCA 11 off 2009, when the Court said the following;

*“to support detention, the Prosecution must demonstrate a prima facie case against the accused, then the Court should determine whether the defendant may be released with or without conditions for the purpose of ensuring that the defendant appears on a subsequent trial date. The seriousness of the charge requires the consideration of the facts of each particular case and the evidence of the Prosecution gathered so far. This is independent of consideration such as whether there may be interference with witnesses or there is a breach of bail conditions”.*

[32] Although on account of the averments in the affidavit in support of the motion for remand, I am satisfied, that there are sufficient evidence of a *prima facie* case against

the 1<sup>st</sup> accused / 2<sup>nd</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent in respect of the offences allegedly committed by them, I am not satisfied, that the averments adduced by the Prosecution relating to the grounds upon which the Republic is seeking for remand is strong enough to warrant detention of the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent in police custody.

[33] The Prosecution's emphasis on the seriousness of the offence is undermined by the fact, that the 2<sup>nd</sup> and 3<sup>rd</sup> accused who have allegedly committed similar offence or offences carrying similar penalties, have been granted conditional bail without the Prosecution objecting to their release on bail. If the application to remand the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent in police custody is merely based on consideration that they are police officers, this cannot be a matter to be taken into account when considering whether to remand them in police custody or to release them on bail with or without conditions.

[34] Therefore, the suggestion that the alleged offences allegedly committed by the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent are aggravated by the fact that they are police officers, although true, cannot be taken into account to remand them in police custody. This is a matter for consideration after conviction to determine the appropriate sentence, which I am sure, the Court will take into account if they are convicted for the offences of which they have been charged, when the case will be at sentencing stage.

[35] The suggestion, that if the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent are released on bail they will interfere with witnesses and obstruct the investigation and therefore obstruct the course of justice because they are known to the witnesses leaves a lot to be desired. This is because the Court has not been appraised of what other investigation that needs to be carried out, knowingly, that the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent have both already been charged and are before the Court to answer the charges against them. Nevertheless, same could be said in respect of the 2<sup>nd</sup> and 3<sup>rd</sup> accused who have been remanded on strict bail conditions in the absence of an application for remand by the Republic.

[36] As to the suggestion, that the Police have substantial ground to believe, that if the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent are released on bail there is a great likelihood that they will tamper with pertinent exhibits, and or dispose of exhibits, I have already addressed that point in a preceding paragraph of this Order.

Suffice to say, at this point, that the police can take different course of action to deny the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent from having access with the exhibits. This may include, for example, taking disciplinary actions against them and applying a justifiable disciplinary measure against them.

[37] In deciding this application for remand, I have also had the opportunity to read the ruling in respect of *The Republic and Achille Agathine, Julius Zialor and Jean-Paul Marie, CO2021* which concerns application for bail. I note, that bail was denied on one or two occasions, and that the application eventually succeeded. I also note, that in this particular case, there were three police officers allegedly involved, and that they were charged with more serious offences than in the instant case.

[38] Therefore, for the reasons discussed in the preceding paragraphs of this Order, and after considering all the conflicting interest, this Court is persuaded not to grant the application for remand of the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 1<sup>st</sup> respondent in police custody, which application is therefore declined. To secure the attendance of the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent in Court to submit themselves to the jurisdiction of this Court for the proceedings that would follow, this Court hereby makes the following order;

(i) The 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent shall be remanded on bail on the following strict bail conditions;

(a) the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent shall both pay a cash bail of SCR 15, 000/- each.

(b) the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent shall surrender their passport, if any, or any travelling documents they may have at the Registry of the Supreme Court.

(c) the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent shall report to the nearest police station to their family home every Friday of the week before 6 p.m., commencing Friday the 11<sup>th</sup> March 2022.

(d) the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent shall not interfere with witnesses or potential witnesses in this case.

(e) the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent shall submit themselves to the jurisdiction of this Court, and be in attendance thereon, whenever their presence in Court is required.

[39] In addition, this Court makes further orders as follows;

- (i) that breach of either of these bail conditions by the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent shall render them liable to surrender to custody and forfeiture of the security.
- (ii) that the Immigration Authority is not to issue any travelling documents to the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent.
- (iii) that a copy of this Order be served on the Director of Immigration, Independence House, Victoria, Mahe, Seychelles.

[40] In conclusions, the 1<sup>st</sup> accused / 1<sup>st</sup> respondent and the 4<sup>th</sup> accused / 2<sup>nd</sup> respondent are remanded in police custody until those bail conditions are fully met, which shall not be later than the 22<sup>nd</sup> March 2022, failing which they shall be caused to reappear before this Court on this day at 09:00 a.m. for remand.

Signed, dated and delivered at Ile du Port on 08<sup>th</sup> March 2022.

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B. Adeline

Judge of the Supreme Court