

IN THE SUPREME COURT OF SEYCHELLES

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Reportable  
[2022] SCSC 111  
CR 57/2020

**REPUBLIC**  
(rep by Hemath Kumar )

**Republic**

and

**DERECK MIKE BONNELAME**  
(rep. Clifford Andre)

**Accused**

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**Neutral Citation:** *Republic v Dereck Mike Bamboche* CR 57 of 2020 [2022] SCSC 111  
delivered on 19 December 2022

**Before:** Vidot J

**Summary:** Trafficking in a controlled drug by means of being found in unlawful possession of a controlled drug with intent to traffic, contrary to section 7(1) read with section 9(1) and section 19(1)(d) of the Misuse of Drugs Act 2016.

**Heard:** 12-03-21, 25-03-2, 26-05-21, 26-05-22, 19-10-22 and 06-12-22

**Delivered:** 19 December 2019

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**ORDER**

Sentenced to one year imprisonment and a fine of SR15,000.00 payable within 3 months from date of release from prison and in default to 3 months imprisonment

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**SENTENCE**

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**VIDOT J**

[1] The Accused was charged and pleaded guilty to one count as follows;

### **Statement of Offence**

Trafficking in a controlled drug by means of being found in unlawful possession of a controlled drug with intent to traffic, contrary to section 7(1) read with section 9(1) and section 19(1)(d) of the Misuse of Drugs Act, 2016 (Act 5 of 2016) further read with section 23 of the said Act and punishable under section 7 (1) read with Second Schedule of the Act.

### **Particulars of Offence**

Dereck Mike Bonnelame aka Gato, 39 years old musician of Ile Perseverance1, on 17 day of July 2020, at Ile Perseverance, Mahe, was trafficking in a controlled drug, by virtue of having been found in unlawful possession of a net weight of 904 grams of controlled drug namely hashish (cannabis resin), in a Hyundai car bearing registration number S23998, of which car the said Dereck Mike Bonnelame, aka Gato was in charge of which gives rise to the rebuttable presumption of having possessed the said controlled drug with an intent to traffic.

- [2] After the facts were read out by the Prosecution, the accused admitted the same and was therefore accordingly convicted. Since the accused is a first-time offender, his Counsel requested for a Probation (Pre-Sentence) Report. The same was prepared and a copy served on Counsels prior to submission in mitigation.
- [3] Mr. Andre, Counsel for the accused pleaded to Court to show leniency on his client and impose a non-custodial sentence. He noted that his client has pleaded guilty thereby showing remorse and accepting responsibility for the offence committed. Though I agree that these are mitigating factors for a reduction in the severity of sentence, I nonetheless note that the guilty plea came nearer the close of the prosecution case.
- [4] However, a guilty plea does earn the accused credit as far as sentence is concerned. A guilty plea saves the court's precious time but as I have said in this case, it came very late and after most prosecution witnesses had testified. So, in effect, there reduction in court's cost was insignificant and witnesses were not saved the inconvenience of giving evidence before Court.

- [5] Section 49 of the Misuse of Drugs Act provides for mitigating factors that should earn an accused a reduction in sentence. These include, the acceptance of responsibility for the harm and potential harm associated with the offence, the absence of prior convictions and the fact that no other person was involved in or directly harmed by the offence. These are mitigating factors that are present in this case.
- [6] The Probation Report provides antecedent particular to the accused, in particular his personal and family background. I particularly note that the accused's partner is presently expecting. He had another child who unfortunately died at the age of 9 years and his partner has a daughter of 15 years old.
- [7] The accused is full time singer. Mr. Andre had submitted that as a singer the accused has been very active in society and presented several flyers that attest to the accused's popularity. However, I have to state that being a popular artist, the accused can have influence on many people and in particular the youth and that is more reason why he should not have involved himself in criminal activities and in particular drugs offences which is pervasive to the youth and continue to spread at alarming rate amongst our youth. He should be using his popularity not only to disseminate positive messages but equally to act responsibly. Yet the accused is part of a parent group with the CARE Association that educates and sensitizes parents whose children are drug users. Therefore, he should have known better.
- [8] The accused remarked to the probation officer that he started smoking at a young age. He smokes to keep himself relaxed as he has a lot of anxiety and unable to sleep.
- [9] The accused also complained of ill health. He said that he is bipolar though he has produced no medical evidence to support the claim. He states that he suffers from shortness of breath, muscle pain and low blood pressure. The medical report produced on his behalf diagnosed him as suffering from mixed anxiety and depression and the prognosis is that there is potential for improvement of symptoms provided that he continues with clinical follow-ups and medication. However, it is noted that he is known to the Mental Health Services since June 2022 with a history of difficulty to sleep, low mood and anxiety. When he visited the clinic on 17<sup>th</sup> October 2022, he "*was clean, oriented and had no psychotic features*".

- [10] In the Report, which was not part of the submission in mitigation, the accused states that he was lured to commit the offence. He said that someone unknown to him, gave him the drugs. As a popular artist he normally gets various gifts from other people and therefore did not find this abnormal to be in receipt of such amount of drug. He had planned to share out the drugs amongst friends. I note that he did not cooperate with the Police to explain the same. I find, it totally suspicious that someone gifted him 904 grams of cannabis. Actually, this is a story that does not find favour with this Court and is rejected in its entirety. How can a responsible member of society accept a gift which is tainted with criminality?
- [11] Mr. Andre relied on a number of authorities, pleading to Court not to impose a custodial sentence on the accused. These include **R v Hoareau (CO7 2016) [2016] SCSC 482 (08<sup>th</sup> July 2016)**, in which case the accused was sentenced to 2 years and 6 months imprisonment and a fine of SR10,000.00 for 487.2 grams of a class B drug and **R v Fred (CO 39 of 2020) [2020] SCSC 720 (30 September 2020)** whereby the accused was sentence to SR30,000.00 for 412.19 grams of hashish. Counsel also referred to **R v Ah-kong (C01 of 2014) [2016] SCSC 820, R v Bastienne (CR7 of 2020) [2020] SCSC 381** and **R v Leeroy Marday (CO85/2020) [2022] SCSC 850**. The latter case involved 680 grams of cannabis resin whilst the former two involved Class B of less 130 grams and accuse were convicted to suspended sentences.
- [12] In meting out sentence I have considered the Probation (Pre-Sentence) Report and mitigation by Counsel. I note that drugs use remains a problem of mammoth proportion in our country and the youths are particularly susceptible to it. People with influence is society has to assist in combatting the problem and not propagate it.
- [13] I therefore convict the accused to a term of one (1) year imprisonment and a fine of SR15,000.00 payable within 3 months after release from prison and in default to 3 months imprisonment. Any time spent on remand shall be deducted against this sentence.
- [14] If unsatisfied with this sentence, the accused may appeal against the same within 30 working days from today.

Signed, dated and delivered at Ile du Port 19 December 2019

  
Vidot J