

SUPREME COURT OF SEYCHELLES

Reportable
[2022] SCSC 356
MC 05/2022

In the matter between:

THE REPUBLIC
(rep. by Mr. Powles)

Applicant

and

FRANCISCO TIRANT OF ANSE ETOILE, MAHE **Respondent**
(rep. by Mrs. Alexia Amesbury)

Neutral Citation: *The Republic vs Francisco Tirant* (MC 05/2021) [2022] SCSC 356 (14 April 2022).
Before: Esparon J
Summary: Application under Section 74 (3) of the AML/CFT Act seeking an order from the Court authorising the continued detention of cash.
Heard: 14 April 2022
Delivered: 14 April 2022

ORDER

RULING

ESPARON J

[1] This is an application by the Republic seeking an order from this Court pursuant to Section 74 (3) on the Anti-money Laundering Act and Counter Financing of Terrorism Act for authorising the continued detention of cash seize from the Respondent on the 4th April 2021 pursuant Section 74 (1) of the said AML/CFT Act for a period not exceeding 60 days.

- [2] The application was supported by the affidavit of Dave Jeanne a Sergeant in the Seychelles Police Force attached to the FCIU.
- [3] The facts of the case was that the Respondent was approached so that a search for cash could be conducted on his person and luggage bags, at the Seychelles International Airport.
- [4] The Respondent luggage was searched and a sum of USD10,000 was found concealed amongst the clothes and as such when asked why, he did not declare the cash, the Respondent could not account for the source of cash which was found concealed in his smaller luggage of which he did have any documents to prove the origins of the cash but stated that he had a bank account MCB and Nouvobanq and have effected purchase from various Bureau de Change.
- [5] Hence, a total of SCR243,437 in cash was found during the said search of which a total of USC 10,000 was found concealed in one of the Respondent luggage which was going to be removed from the Republic.
- [6] The deponent avers in paragraph, 22 and 23 of her affidavit that the cash seized is substantial and the FCIU requires more than the stipulated time of 14 days to conduct an investigation in the matter.
- [7] The deponent avers in paragraph 24 of his affidavit that the detention of the said cash beyond 14 days is justified whilst its origin or derivation is being investigated or consideration is given to institution of criminal proceedings against the Respondent for an offence which cash is connected.

[8] Ex-facie the pleadings, this Court is satisfied that the concealment and the removal of property namely cash may amounts to the offence of money laundering, contrary to Section 3 of the AML, CFT Act, as such the FCTU needs sufficient time to conduct such an investigation especially when cash is seized and there is no documents furnished by the Respondent to show the Provenance or origins of the funds.

[9] (a) That as a result this Court is satisfied that there are reasonable grounds for suspicion that the person exporting or intends or about to export, or has in his possession or control an amount of cash less than the prescribed sum; or

(b) The cash found on the person represent the proceeds of crime or is intended by any person for use in connection with any criminal conduct; or

(c) The cash is in excess of the prescribed sum and was not declared by the person when leaving Seychelles.

[10] As a result of the above, this Court makes the following order;

i. I accordingly grant an order authorising the continued detention of cash for a period of 30 days as per the table attached to the notice of motion namely,

a. USD 15,600.00

b. EURO 1000.00

c. SCR 2675.00

of which altogether amounts to the sum of SCR243,437.00

- ii. I accordingly Order the Registrar of the Supreme Court to serve notice of this order on the Respondent namely, Francisco Dominique Tirant of Anse Etoile, Mahe.

Signed, dated and delivered at Ile du Port on 14 April 2022

Esparon J