

SUPREME COURT OF SEYCHELLES

Reportable
[2023] SCSC 275
FH 01/2023

In the matter between:

THE REPUBLIC
(Represented by Mrs. Leste)

Prosecution

versus

████████████████████
(Present/Unrepresented)

1st Respondent

████████████████████
(Represented by Mr. France Bonte)

2nd Respondent

Neutral Citation: *Republic v/s* ██████████ (FH01/2023) [2023] SCSC 275 11 April 2023
Before: D. Esparon
Summary:
Heard: 11th April 2023
Delivered: 11th April 2023

ORDER

D. Esparon, Judge.

Introduction

[1] This is an application by the Republic asking of the remand of further holding of the suspects (number 1), that is ██████████ under Section 101 of the Criminal Procedure Code. The alleged offence of which the suspect has allegedly committed according to the Prosecution is;

- (i) recruiting, harboring, transferring, receiving a child knowingly or recklessly disregarding that person is a child, for purpose of exploitation, whether or not by the use of force or other forms of coercion contrary to Section 4 (1) (b) and committing the offence against more than one victims contrary to section 5 (1) (b) under the Prohibition of Trafficking in Persons Act, 2014.
- (ii) Intentionally benefiting from the exploitation of Trafficking in person contrary to and punishable under section 6 of the prohibition of Trafficking in person Act, 2014.
- (iii) Sexual Assault contrary to section 130 of Penal Code.

[2] It appears from the affidavit in support of the application sworn by Detective Moira Hoareau that a complaint was received on the 22nd of March 2023 of a charge trafficking in persons which was registered at Mont Fleuri Police Station from one [REDACTED]. He reported that he is the father of [REDACTED] an 11 years old and [REDACTED] an 11 years old, both of [REDACTED] who had reported to him that their mother [REDACTED] (suspect number 1) brought them to a man at Providence whom they know as [REDACTED] (suspect number 2). They further averred that their mother [REDACTED] (suspect number 1) left both of them unattended at the office with the said man [REDACTED] (suspect number 2) and the man [REDACTED] forced them to remove their panties and the said man [REDACTED] (suspect number 2) indecently touched their private part and forced them to play with his penis, in return to pay them the following sum at different occasions with Rs 400 being the highest received.

[3] The two girls were interviewed namely [REDACTED] 11 years old and [REDACTED] of [REDACTED] where they confirmed the said incidents in their statements. As a result, the Police arrested the mother [REDACTED] where she was interviewed and she stated that she knows [REDACTED] since 2022 and the same [REDACTED] offered to help her when she is in need. She stated that several times she sent her two daughters to collect

money from [REDACTED] [REDACTED] when she is in need and she had also left her daughters unattended in the office with [REDACTED] [REDACTED] (suspect number 2) and she further stated that [REDACTED] [REDACTED] also shows her daughters films on his computer. She denied having knowledge that her daughters was being assaulted by [REDACTED] [REDACTED]. Both suspects, [REDACTED] (suspect number 1) and [REDACTED] were being detained by the Police.

[4] These are the inquiries which the Police have been carried out so far;

- (i) Two suspects was arrested and interviewed.
- (ii) Digital devices, two phones and one digital watch have been seized and send for digital extraction.
- (iii) Four witnesses have been interviewed so far.
- (iv) Two victims have been medically examined.
- (v) Search warrants has been executed upon telecom services.
- (vi) Police has identified crime scenes were alleged offences has been committed which needs to be examined and searched.
- (vii) Search warrants to be executed at the office and residence of the suspects.

[5] Further inquiries which the Police need to carry out are as follows;

- (i) they are awaiting results of digital forensic examination so the digital devices to reveal more victims and if there are other potential suspects.
- (ii) Awaiting phone calls records from both Airtel and Cable & Wireless telecommunication that potentially may reveal more suspects or victims.
- (iii) Potential witnesses needs to be interviewed.
- (iv) The victims have mention other victims that police needs to be traced and interview.

- (v) Police needs to trace other past young girls that has worked with suspect [REDACTED] (suspect number 2).

[6] The reasons why Republic is seeking the remand of the 1st suspect are as follows;

- (i) the alleged offences namely Recruiting, harboring, transferring and receiving a child, knowingly or recklessly disregarding that the person is a child, for the purpose of exploitation, whether or not by the use of force or other forms of coercion and intentionally benefiting from the exploitation of Trafficking in person and committing the alleged offences against more than one victim are serious in nature and carries a maximum sentence of 25 years imprisonment.
- (ii) the alleged offences namely Sexual Assault is also a serious offence and carries a maximum sentence of 20 years imprisonment.
- (iii) the Police are still conducting further investigation to determine whether there are any other victims in the case as information gathered indicated that there are other young girls who has worked with the suspects under a short period of time. As a result, the police have strong reasonable grounds to believe that if the suspects is released on bail, they will interfere with other potential victims who are still unknown to the Police, thereby impeding the course of justice.
- (iv) Furthermore, the Police have substantial reason to believe that, given the nature of the alleged offences, suspect may interfere with the potential witnesses.
- (v) The suspect has indecently assaulted three girls between the age of 11 years to 15 years and as the investigation progresses, other young girls has been identified.

[7] Other grounds which are only as regards suspect number 1 are as follows;

- (i) suspect number 1 being the mother of the two vulnerable victims, if released may interfere with the victim as well as other potential witnesses from the family.

[8] First and foremost, this court reiterates the cardinal principles which are provided for in our Constitution whereby the suspect is innocent until pleaded guilty or found guilty and

that the suspect has a right to bail which is the rule and the exception is the remand of the suspect.

[9] The Suspect number 1 has objected to the remand application on the grounds that her mother is very old and she takes care of her mother and the children are looking for her.

[10] This court has meticulously considered the submissions of Counsel for the Republic and that of the reasons given and submissions of the suspect number 1 herself and this court first and foremost finds that;

(i) in accordance with the case of *Roy Beeharry vs Republic*, Seychelles Court of Appeal, that the Prosecution has establish a *prima facie* case against the 1st Accused person in respect to the bail application.

(ii) Since the suspect number 1 is the mother of the two alleged victims before the Court, that is [REDACTED] and the same victims were living with the 1st suspect at the time of the incident, I find that the Republic has established that there are reasonable grounds to believe that in the event that the 1st suspect is release on bail, there are reasonable grounds to believe that she will interfere with witnesses being the virtual complainants in the case, that is her two daughters, [REDACTED] [REDACTED] and this Court finds that the risk is very high indeed.

(iii) this court further finds that the suspect number 1 should be remanded in custody since the offence of recruiting, harboring and transferring and receiving a child, knowingly or recklessly disregarding that the person is a child, for the purpose of exploitation whether or not by the use of force or other forms of coercion contrary to section 4 (1) (b) and intentionally benefiting from the exploitation or the Trafficking in person contrary to and punishable under section 6 of the prohibition of Trafficking in person Act 2014.

[11] These are serious offenses indeed carrying a maximum sentence of 25 years imprisonment in the event of conviction. Hence as a result of the above findings, this court shall remand the suspect number 1, that is [REDACTED] in custody for a period of 14 days.

Signed, dated and delivered at Ile du Port 11th April 2023.

DESPARON

Esparon J

