

SUPREME COURT OF SEYCHELLES

Reportable
[2023] SCSC
CO 33/2022

In the matter between:

THE REPUBLIC
(rep. by Ketlynn Marie)

Republic

and

AMANDA DOS ANJOS
(rep. by Joshua Revera)

Accused

Neutral Citation: *Rep v Dos Anjos* (CO 33/2022) [2023] SCSC (25 May 2023)
Before: Burhan J
Summary: Sentence Importation of Controlled Drugs under the Misuse of Drugs Act 2016
Heard: 15 May 2023
Delivered: 25 May 2023

ORDER

Accused sentenced to 8 (eight) years imprisonment on Count 1.

SENTENCE

BURHAN J

[1] The accused Amanda Ravara Dos Anjos was convicted on her own plea of guilt for the following offence:

Count 1

Importation of controlled drug contrary to Section 5 of the Misuse Of Drugs Act, 2016 and punishable under Section 5 as ready with the Second Schedule of the Misuse of Drugs Act, 2016.

Amanda Ravara Dos Anjos, 32 year old Brazilian national holding Passport no. FY617779, on the 10th July 2022 imported into Seychelles a controlled drug namely one dark brown/khaki carton packet weighing 1921.41 grams of Cocaine with a purity content of 86% and one black/khaki carton packet weighing 1196.68 grams of cocaine with a purity of 63% amounting to a total cocaine content of 3118.09 grams and having a total net weight of white substance amounting to 4133.70 grams on board the flight EK 705 coming from Dubai.

- [2] At the request of her learned Counsel Mr Revera, a probation report was called prior to sentencing the accused.
- [3] The probation reporting on the personal circumstances of the accused, informs Court that the accused is a Brazilian National who is 33 years of age and a single mother having a seven-year-old daughter. The accused has informed the probation officer that she has completed her primary, secondary and university education in Sao Paulo Brazil but has not provided details of her academic qualifications. According to the report, the accused had worked as the Administrative Officer in a construction company owned by her father. The company had gone bankrupt during the COVID outbreak and had to close down and the accused had not been able to find employment thereafter and did pastry making from time to time to earn a living. She had been struggling to make ends meet which included paying house rent and paying for medical expenses of her daughter who suffers from leukaemia.
- [4] It is stated in the report it was during this financially difficult period that she had been talking to her friend who had informed her of a drug transaction and she had agreed to do it for a sum of money. She was to come to Seychelles and was to be given the controlled drugs at the Seychelles airport by a person and her job was to walk out with the drugs to

the guesthouse, from where it was to be collected by another person. She had done as instructed but as soon as she collected the controlled drugs from a lady at the airport she was arrested by the Seychelles Police Officers.

[5] The accused expresses regret and remorse at what she has done and stated she did so as she was promised money in return which she was hoping to use to settle her debts and the medical bills of her daughter. She states she is a first offender.

[6] Learned Counsel Mr Revera in mitigation informed Court, he would be adopting the contents of the probation report and stated that he was aware the propensity of sentencing in this type of serious offence was a custodial sentence. He stated he would not dissuade Court from imposing one but would be submitting for mitigation on the length of such custodial sentence. He submitted the accused is a first offender and a relatively young woman and relies on the facts set out in the probation report in respect of her personal and family circumstances and added that the daughter of the accused is presently being maintained from family to family. The accused he stated has pleaded guilty at the earliest opportunity to the charge, demonstrating her genuine remorse in the commission of the offence of the importation of the controlled drug. He moved Court to give full credit for her guilty plea. He further submitted that it is clear from the admitted facts produced by the prosecution and the probation report that the accused Amanda Dos Anjos was taken advantage of and used as a drug mule for the benefit of others.

[7] He further moved that Court temper justice with mercy in the imposition of sentence. He reiterated that the accused is the mother of a seven years old daughter who is suffering from leukaemia and the said daughter is heavily reliant on her mother and the mother's absence would affect her child's life irreparably and have a negative impact on the child. However, it is be observed that no medical certificate confirming same was produced. He moved that the custodial sentence be one aimed towards one of rehabilitation. He moved that Court take cognizance of the willingness of the accused to assist the police during the controlled delivery to apprehend those that were the actual culprits behind the offence.

[8] In similar cases of Importation of Controlled Class A drugs into Seychelles ***R v Petrus Vermuelen*** [2022] SCSC 508 5, ***R v Peris Munyao*** [2021] SCSC 411, ***R v Nakiganda***

[2021] 864, *R v Nurdin Kamba* [2020] SCSC 24, *R v Elsie Vamba* [2022] SCSC 294, *R v Petrus Vermuelen* [2022] SCSC 508, *The Republic v German Dixon* [2023] SCSC 208 this Court imposed sentences ranging from 5 to 6 years imprisonment on persons referred to by learned Counsel for the accused as ‘drug mules’. However, imposing such custodial terms of 5 to 6 years imprisonment has not been a deterrent and they keep coming into the Seychelles.

[9] Learned Counsel Mr Revera further submitted that he would highlight that in this instant case there are overwhelming personal mitigation factors as spelt out under Section 49 of the Misuse of Drugs Act, the accused being a first offender and the immediate admission of truth and acceptance and responsibility for potential harm.

[10] He finally moved that justice be tempered with mercy in the imposition of the sentence.

[11] He further relied on the sentences imposed by Courts in several cases. The sentence in the case of *The Republic v Memunatu Esther Kamara* [2023] SCSC 231 of 4 years’ imprisonment is not applicable as the accused pleaded guilty to the alternative charge of trafficking and not importation. Further the case of *Republic v Japhna Agricole* [2021] SCSC 457 referred to by learned Counsel is not applicable to the facts of this case as the pure quantity of Class A drug heroin was a mere 9.74 grams.

[12] I will next deal with the medical grounds urged by learned counsel in mitigation. Although he states that the child of the accused is suffering from leukaemia, no attempt was made to produce a medical certificate to support same unlike what was done in the *Vermuelen* case referred to herein. The accused has informed the probation that she is suffering from cancer but it appears that the medical report specifically states ‘R/O breast cancer’ which means ‘Ruled Out’ Breast Cancer. She is not as she states suffering from breast cancer. The medical report further states the accused had refused to attend a consultation with the Oncologist. Therefore, it is the view of this Court the medical factors referred to by learned Counsel in mitigation and in the probation report cannot be taken into consideration without medical proof of same.

- [13] I have considered the facts set out in the probation report and the mitigating factors referred to by learned Counsel Mr Revera for the accused i.e. that the accused has pleaded guilty to the charge of importation thereby saving the time of Court and expressing remorse and regret at what she has done. She has also assisted in the controlled delivery even though no one was arrested I also take into consideration the personal circumstances mentioned in the probation report.
- [14] It is the view of this Court that the pure quantity concerned is large. The controlled drug Cocaine is a Class A controlled drug with a total cocaine content of 3118.09 grams and having a total net weight of white substance amounting to 4133.70 grams. Unlike the other cases referred to herein at paragraph [8], I see no medical grounds that could be considered in her favour. Had she not been timely arrested at the airport when she brought the controlled drug into the country and had this quantity of controlled drug hit the streets, the detrimental effect on the population, especially the younger generation would have been severe. Giving due consideration to the seriousness of the offence and the facts set out in mitigation by Learned Counsel the fact that suitable deterrent punishment must be given to prevent repetition of such offences, I proceed to sentence the accused Amanda Ravara Dos Anjos to a term of 8 (eight) years imprisonment.
- [15] Considering the large quantity imported, this Court is of the view that it was clearly not for her personal consumption (nor claimed by her to be) but for more sinister purposes of a commercial nature/trafficking. I am satisfied therefore that aggravating circumstances exist and therefore the accused is not entitled to remission.
- [16] Time spent in remand to count towards sentence. Right of appeal against sentence explained.

Signed, dated and delivered at Ile du Port on 25 May 2023

Burhan J