

IN THE SUPREME COURT OF SEYCHELLES

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Reportable  
[2022] SCSC 771  
CR56 /2021

In the matter between

**THE REPUBLIC**  
(rep. by Hermanth Kumar )

**Prosecution**

and

**DANIEL EGBERT LAURENCE**  
(rep. by Clifford Andre)

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

**RANDOLH DILIP NICETTE**  
(rep. by Clifford Andre)

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

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**Neutral Citation** *The Republic v Daniel Laurence & Anor* (CR56/2021) SCSC...771...  
delivered on 14 October 2022

**Before:** Vidot J  
**Heard:** 21 September 2023  
**Delivered:** 05 October 2023

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**SENTENCE**

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**VIDOT J**

[1] The Accused, Daniel Laurence and Randolph Nicette stand charged with and pleaded to the following offences

Count 1

**Statement of offence**

Trafficking in a controlled drug namely cannabis resin contrary to section 7(1) of the Misuse of Drugs Act 2016, read with section 22(a) of the Penal Code and punishable under section 7(1) of the Misuse of Drugs Act.

**Particulars of Offence**

Daniel Egbert Paul Laurence and Randolph Dilip Serge Nicette of Pascal Village, Mahe, on or before the 12<sup>th</sup> June 2021 at their residence at Pascal Village, Mahe, have done the acts of trafficking in a controlled drug namely cannabis resin having a total net weight of 437.20 grams, in contravention of the said Act and committed an offence of trafficking.

Count 2

**Statement of Offence**

Use of premises to commit the offence of trafficking in controlled drug namely cannabis resin contrary to section 11(1)(c) of the Misuse of Drugs Act, 2016 read with section 7(1) of the Misuse of Drugs Act, 2016 and section 22(a) of the Penal Code, and punishable to the penalty specified in the Second Schedule of the Misuse of Drugs Act, 2016.

**Particulars of Offence**

Daniel Egbert Paul Laurence and Randolph Dilip Serge Nicette of Pascal Village, Mahe on or before the 12<sup>th</sup> June 2021 used their residence at Pascal Village for the purpose of doing trafficking in a controlled drug, namely cannabis resin having the net weight 437.20 grams, in contravention of the said Act.

Count 3

**Statement of Offence**

Obstruction of Justice contrary to section 35(2) of the Misuse of Drugs Act, 2016 and punishable to a penalty specified in the Second Schedule of the Misuse of Drugs Act, 2016.

**Particulars of Offence**

Daniel Egbert Paul Laurence of Pascal Village, Mahe, on the early hours of 12<sup>th</sup> June 2021 at his residence in Pascal Village, Mahe made an offer to Police Officers who restrained him therein, say that he will give money and a car to them, in order to prevent the investigation commenced against him by the Anti-Narcotic Bureau.

Count 4

**Statement of Offence**

Operation of unauthorised bar at the residence contrary to section 20(1) of the Licences Act, 2010 read with section 24(4) of the Licences Act, 2010 and section 22(a) of the Penal Code and punishable under section 25(b) of the Licences Act.

**Particulars of Offence**

Daniel Egbert Paul Laurence and Randolph Dilip Serge Nicette of Pascal Village, Mahe, on or before 12<sup>th</sup> June 2021 operated an unauthorised bar at their residence in Pascal Village allowing the general public to come and drink alcohols therein , contrary to the Licences Act.

Count 5

**Statement of Offence**

Violation of the Prohibition Order of Public Health Commissioner contrary to Regulation 3. 1 of the Infectious Disease (Prohibition of Public Assemblies) Order (No.4) 2021. Issued under section 25(5) of the Public Health Act, 2015 read with section 22(a) of the Penal Code and punishable under section 25(6) of the Public Health Act, 2015.

**Particulars of Offence**

Daniel Egbert Paul Laurence and Randolph Dilip Serge Nicette of Pascal Village, Mahe, on or before the 12<sup>th</sup> June 2021 hosted a private entertainment event at their residence in Pascal Village, allowing the general public to come and drink alcohol and socialise

therein, contrary to the Prohibition Order of the Public Health Commissioner which prevented, controlled and suppressed the spread of Covid 19 in Seychelles.

- [2] After the charges were read, the facts were read and the Accused admitted the facts, thus why they were accordingly convicted.
- [3] Counsel for the Accused pleaded to Court to show leniency to his clients and called for non-custodial sentences. The Accused are very young men. He noted that by pleading guilty his clients have shown remorse and save the Court's precious time and resources and the inconvenience of witnesses having to testify before Court. He noted that such plea should benefit the Accused. Indeed, a guilty plea should and will earn the Accused credit when a Court imposes sentence on them.
- [4] A guilty plea is also a mitigating factor as per Section 49 (a) of the Misuse of Drugs Act (MODA). The Accused have accepted responsibility for the harm or potential harm associated with the offences (section 49(b)) and the absence of former conviction as far as the second Accused is concerned, are too, mitigating factors.
- [5] Counsel for the Accused relied on several cases where the court imposed suspended custodial sentences on first time offenders where the amount of class B drugs was considered to be less than 1500 grams and therefore on the low side. These cases are **Republic v Leeroy Marday CO85/2020 [2022] SCSC850**, **Republic v Dave Paul Delpech & Anor CO09/2021 [2022] SCSC 477** and **Republic v Kevin Fred CO12/2023 [2023] SCSC 513**.
- [6] As regards Count 4 regarding the operation of an unauthorised bar and Count 5 violation of the Prohibition Order of the Public Health Commissioner, Counsel for the Accused submitted that there is no indication from the facts read out by Prosecution whether or not people at the residence of the Accused were residents of the premises. At that time the prohibition did not extend to people not living within the same household. I find that this submission came a bit too late. If the Accused had difficulty with those charges, they should have pleaded not guilty. The fact that they pleaded guilty and admitted the facts, by implication, they acquiesced to the particulars of offence that the people found at that

residence did not belong to that household. I note that by committing Count 5, the Accused placed many people at serious health risks.

[7] I shall when passing sentence consider that in meeting out sentence, Courts have to bear in mind that the classic principles of sentencing is deterrence, prevention, rehabilitation, reformation and retribution; see **Lawrence v Republic [1990] SLR 47**. I shall also take into consideration the principle of proportionality and totality of sentence.

[8] In **Morin v Republic SCA Cr. 11/2022 (11 April 2023)** it was stated that in the absence of aggravating factors Court should be slow in sentencing a first time offender to a term of imprisonment. However, in this case only the second Accused is a first Offender. The first Accused was sentenced to imprisonment for one year and suspended for a period of three years in Supreme Court case of Republic v Daniel Laurence, Case CO41/2018 [2018] SCSC 1120 on 07<sup>th</sup> December 2018. In fact, these present offences were committed whilst the suspension was still in force. I shall not be activating the suspended sentence but will refer the matter to the Judge who passed that sentence to activate it, if considered necessary.

[9] After, considering all mitigating factors, I sentenced the Accused as follows;

Count 1;

The first Accused is sentenced to 9 months imprisonment and to a fine of SR15,000.00 which shall become due and payable within 6 months following his release from prison and in default the first Accused shall undergo a period of 12 months imprisonment;

The second Accused is sentence to 1 year imprisonment suspended for 3 years and to a fine of SR18,000.00 and in default to a term of 6 months imprisonment. The sum shall be paid on or before 6 months from today.

Count 2;

The first Accused is sentenced to 6 months imprisonment and to a fine of SR10,000 and in default to a term of 4 months imprisonment. The sum shall become due and payable 6 months following his release from prison;

The second Accused is sentenced to 9 months imprisonment suspended for 2 years and to a fine of SR12,000.00 which sum shall be paid on or before 6 months from today and in default to 4 months imprisonment; in default the first Accused shall undergo a term of 4 months imprisonment.

**Count 3**

The first Accused is sentenced to a term of 6 months imprisonment;

**Count 4**

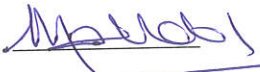
Both Accused are sentenced to a fine of SR5,000.00 each and in default to term of one (1) month imprisonment. The first Accused shall settle the fine not later than 4 months after serving the prison terms imposed under counts 1, 2 and 3 and as regards the second Accused, the fine shall be paid on or before 4 months of this sentence.

**Count 5**

I sentenced both Accused to a fine of SR7,000.00 each and in default to two (2) months imprisonment. The first accused shall pay the fine not later than 6 months after serving the prison terms imposed above and the second Accused shall pay the said sum on or before 6 months from the date of this sentence.

- [10] All terms of imprisonment imposed on the first Accused shall run concurrently.
- [11] Time spent on remand shall be discounted against the sentences.
- [12] The first Accused shall be entitled to remission on the custodial sentence.
- [13] 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 on 05 October 2023

  
M Vidot J