

IN THE SUPREME COURT OF SEYCHELLES

Reportable

CR86 /2023

In the matter between

THE REPUBLIC
(rep. by Corine Rose)

Prosecution

and

NOELINE NAMATOVU
(rep. by Daniel Cesar)

Accused

Neutral Citation	<i>The Republic v Noeline Namatovu</i> (CR86/2021) delivered on 13 May 2024
Before:	Vidot J
Heard:	08 April 2024
Delivered:	13 May 2024

SENTENCE

VIDOT J

- [1] The Accused stands charged with and pleaded guilty to one count of importation of a controlled drug contrary to section 5 of the Misuse of Drugs Act 2016 and punishable under the Second Schedule of the said Act read section 48(1)(a) and (b) of the same Act.
- [2] The particulars of the offence are that the Accused, a Ugandan national, on 19 October 2023, imported into Seychelles a controlled drug namely cocaine with a net weight of 500.50 grams by causing the said controlled drug to be imported into Seychelles hidden in her wig that she was wearing.

- [3] After the facts were read out by the Prosecution and admitted by the Accused, the Court accordingly convicted the Accused who is a first time offender. Counsel for the Accused moved the Court for a Probation Pre-sentence Report (“the Report”). Once the report was received and served on Counsel, he made a submission in mitigation on behalf of his client.
- [4] The submission was in part a repeat of the report. I shall when considering the appropriate sentence to mete out give due consideration to both the report and submissions in mitigation.
- [5] Mr. Cesar, Counsel for the Accused noted that his client is a first time offender who has pleaded guilty and therefore has saved the Court’s time and cost of a trial. In pleading guilty, she has accepted responsibility, thus showing remorse.
- [6] The Accused states that she is a widow and mother of six children, three of whom are still minors. She is the sole bread winner of the family. She had been in employment for some time but then found herself unemployed. She faced financial hardship and was struggling. A friend offered her US\$2000 to travel to Seychelles to collect some items for her. The friend had her collected her and had two other ladies applied her up make up before her travel to Seychelles. Apart from the make-up, they placed a wig on her head but she was unaware that something was hidden in the wig. It was only after she was searched by Police in Seychelles that she became aware of the drugs that was in the wig. She feels that she has been used as a mule. She co-operated with the Police to apprehend the man she had been instructed she would meet in Seychelles.
- [7] Mr. Cesar, Counsel for the Accused pleaded for leniency and pray that Court imposes a minimal custodial sentence. The Report recommend a minimum custodial sentence as well. Counsel submitted that the Accused who is a first time offender pleaded guilty, therefore showing remorse. The Accused also apologises for the offence committed. Indeed, a guilty plea should earn the Accused credit as far as sentence is concerned. **Blackstone’s Criminal Practice (2012), paragraph E.12 p2148** provides that a guilty plea would in effect earn an accused a reduction in sentence as it saves time of the court and reduces considerable cost and in the case of an early plea, saves inconvenience of

witnesses having to give evidence before court, and therefore that “*reduction should be a proportion to the total sentence imposed calculated by references in which the guilty plea was indicated, especially at what stage of the proceeding.*” In fact, section 49 of the Misuse of Drugs Act lists “*admission of the charge through a guilty*” plea and the fact that “*no person was directly harmed by the offence*” as mitigating factors in support of a reduction in sentence.

[8] However, to be involved in criminality is never an option. Furthermore, if the drug, which has a commercial value as provided under section 48(1)(a) of the Act, had reached the market, it is others children who would have been affected. The fight against drugs remains a challenge of mammoth proportion in the Seychelles. We are losing part of a generation due to this insidious cancer that many of our youths have become slaves too. Many of the social ills witnessed today are due to drugs. It is also alarming that foreigners use our country as a playground to benefit from their poisonous trade. It needs to stop.

[9] In meeting out sentence, I bear in mind that the classic principle 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 of sentence.

[10] After, considering all mitigation factors, I sentenced the Accused to a term 10 years imprisonment.

[11] Since the offence is aggravated, the Accused shall not be entitled to remission.

[12] 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 13 May 2024

M Vidot J