

SUPREME COURT OF SEYCHELLES

Reportable

[2024]

CR53/2023

In the matter between:

REPUBLIC

(rep. by Ms Corine Rose)

and

MARIE NANETTE JULIE

(rep. by Mr. Daniel Cesar)

Neutral Citation: *Republic v Julie* (CR53/2023) delivered on 26 March 2024.

Before: A. Madeleine, J

Summary: *Possession of a Controlled Drug contrary to section 8(1) of the Misuse of Drugs Act 2016 - Sentence*

Heard: 22nd January 2024

Delivered: 26th March 2024

ORDER

The convict is sentenced under the alternative count to a term of imprisonment for 1 year suspended for a period of 2 years and to a fine of SCR.10,000/- to be paid by 31st December 2024. In default of payment of such fine, imprisonment for 6 months.

SENTENCE

A. MADELEINE, J

[1] The convict was charged under amended charge dated 30th October 2023 as follows –

“Count 1

Statement of Offence

Cultivation of Controlled drug, namely Cannabis plants contrary to Section 6(2) and punishable under the Second Schedule of the Misuse of Drugs Act, 2016 (Cap 133).

Particulars of Offence

Marie-Nanette Taryn Julie holding NIN 968-0101-2-0-750 and resident of Les Canelles, Mahe, on the 25th April 2019 was found cultivating twenty-one (21) cannabis plants, at her residence of Les Canelles, Mahe.

Alternative to count 1

Statement of Offence

Possession of a controlled drug, namely cannabis resin contrary to section 8(1) and punishable under the Second Schedule of the Misuse of Drugs Act 2016 (Cap 133).

Particulars of Offence

Marie-Nanette Taryn Julie holding NIN 968-0101-2--750 and resident of Les Canelles, Mahe, on the 25th April 2019 was found in possession of twenty-one cannabis plants at her residence of Les Canelles, Mahe.”

- [2] On 30th November 2023, the Convict pleaded guilty to the alternative Count, of the said amended charge and admitted the facts of the prosecution. The convict was therefore convicted under the alternative count only, upon her unequivocal guilty plea and admission of the prosecution’s facts.
- [3] The convict is a first time offender.
- [4] In mitigation, counsel for the convict begged the court for leniency of sentence on account that the Convict is a grandmother and a full time home-carer. It was also submitted that by pleading guilty at the earliest opportunity, the Convict had not only saved the Court’s time and resources but also shown responsibility and remorse for the offence.
- [5] In support of his plea for a lenient sentence, Counsel referred the Court to comparable sentences imposed in the following cases of *Republic v T.Palmyre [2019] (18 November 2019)*, *Republic v Reuben Orphe* and *Republic v Ron Rosalie [2023] (20 April 2023)*.

- [6] In determining the appropriate sentence to be imposed on the convict in the circumstances of his case, I am guided by the following principles. Sentencing does not involve the mere administration of a common formula [vide *Poonoo v Attorney General (2011) SLR 423*] but it involves the human deliberation of what punishment would appropriately protect the public by deterring and preventing others from committing such offences. Also, deliberation of what sentence would appropriately provide the necessary rehabilitation, reform, and retribution for the convicted person [vide *Lawrence & Another v Republic [1990] SLR 47* and *Savy v R (1976) SLR 54*, and the necessity for proportionality.
- [7] The Convict has pleaded guilty to the charge (as amended) at the earliest opportunity, that is on the very first time that she was asked to take a plea in this criminal case. She has therefore saved the court's time and resources, and avoided any likely inconvenience to potential witnesses had the case proceeded to trial. She is also a first time offender who has shown remorse by her timely guilty plea.
- [8] In terms of section 47(d) of the Misuse of Drugs Act, 2016, in sentencing a person convicted under section 8 of this Act, the court shall not impose a sentence of imprisonment unless satisfied that the non-custodial sentence is inappropriate in all circumstances.
- [9] Having regard to all the facts and circumstances and plea in mitigation on behalf of the Convict, I am satisfied that the convict is a remorseful first time offender who deserves credit for her early guilty plea, and I hereby sentence her as follows -
- Under the alternative Count – To a term of imprisonment for 1 year suspended for a period of 2 years and to a fine of SCR.10,000/- to be paid by 31st December 2024. In default of payment of such fine, imprisonment for 6 months.
- [10] The Convict may appeal this sentence within 30 working days of the date hereof.

Signed, dated and delivered on the 26th March 2024 at Ile du Port, Mahe.

A. Madeleine, J