

**IN THE SUPREME COURT OF SEYCHELLE**

**THE REPUBLIC**

**VS.**

**FREDERICO BOUX (Accused)**

Criminal Side No. 47 of 2007

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Mr. Govinden for the Republic

Mr. Elizabeth for the Accused

**RULING**

***Gaswaga, J***

The accused (now applicant) is currently in detention on orders of the Court for having been charged with the offences of (1) Trafficking in a controlled drug and (2) Having been found in possession of utensils intended for the administration of a controlled drug.

His counsel, Mr. Elizabeth, has now filed a notice of motion for the following orders:

- i. "A hearing of extreme urgency.*
- ii. A writ of habeas corpus do issue directed to the Republic to have the body of the accused, Frederico Boux, produced before the Supreme Court immediately.*
- iii. That the costs of and occasioned by this motion be borne by the Republic to be taxed and paid by the Republic to the accused.*

- iv. *And take notice that on the hearing of the motion the said accused will use the affidavit of his attorney, Mr. Frank Elizabeth and will demand that the accused be enlarged on bail.”*

The application was duly supported with an affidavit sworn by Mr. Elizabeth. On the 8<sup>th</sup> November, 2007 at 1.45pm when the applicant was produced before the Court Mr. Elizabeth intimated that the first and second prayer had been granted and fully satisfied while for the third prayer he decided to drop it.

The gist of Mr. Elizabeth's affidavit is that he was duly informed by the applicant on the 5<sup>th</sup> November, 2007 that the applicant, whilst in prison was violently attacked and assaulted. That as a result of the said attack he cannot believe that the state can guarantee the applicant's safety and security anymore.

In objection to these allegations the affidavit of Chief Inspector Joachim Pillay, the person in charge of operations at Mt Posée Prison was filed. Paragraphs 3, 4, 5, 6, 7 and 10 are worth reproducing.

*“3. I aver that there has never been any attack or assault on the person of the above-named accused whilst he was being detained at Montagne Posée Prison.*

*4. I aver and verily believe that any allegations of attacks or assaults by any personnel of the prison on the accused is unfounded, frivolous and fabricated and that these allegations are being levelled at the prison authorities in order to allow the prisoner to achieve his objectives of either being enlarged on bail or for him to change his place of remand.*

5. *Accordingly, any alleged injuries on the body of the accused is either self inflicted or has been inflicted without the knowledge or consent of the prison authorities.*
6. *I verily believe that the life, safety and security of Mr. Boux are properly safeguarded whilst he is being detained there.*
7. *I aver that Mr. Boux, if he is sick, he can be properly treated whilst he is detained at the Montagne Posée Prison. This is the case for several other sick prisoners that are being detained there.*
10. *I aver that the fact that the accused's counsel cannot come out with the names and other particulars in his alleged complaints to the court further serves to show the frivolity of his accusations."*

To this end Mr. Elizabeth asked for time to carry out some investigations and filed evidence to substantiate the allegations in the application before the Court. It was agreed that Mr. Elizabeth files papers sometime on or before 19<sup>th</sup> November, 2007 to enable the Court to write and deliver a ruling on the 23<sup>rd</sup> November, 2007 at 9am. In the meantime it was ordered that the applicant should be removed from Mt Posée Prison and detained at the Central Police Station. He was also taken to the doctor for examination and possible treatment. To date nothing has been filed although the Court left the door open for the applicant to do so and indeed I had to put up with the pains of having to write this ruling at the very last minute. Hence the allegations in the motion were left unsubstantiated.

As earlier stated, there is no doubt that the offences herein are serious and rampant. When viewed in light of the manner in which they are committed thus involving a number of people, prior coordination and planning together with the effects caused on the health of human beings, it all points to their seriousness. There being no change in the circumstances to warrant the release of the applicant on bail I hereby remand him in

prison under Section 179 of the Criminal Procedure Code, Cap 54 for another fourteen days. The fourth prayer must accordingly fail.

**D. GASWAGA**

**JUDGE**

Dated this 23<sup>rd</sup> day of November, 2007.