

**IN THE SUPREME COURT OF SEYCHELLES**

**THE REPUBLIC**

**VS.**

**OLIVER HOAREAU**

Criminal Side No. 53 of 2010

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Mr. Esparon for the Republic

Mrs Amesbury for the Accused

**ORDER**

***Burhan, J***

I have considered the application for bail made by learned counsel for the accused and the objections of learned counsel for the prosecution in respect of same.

It is clear that the right of the accused to bail at the time he was produced in court, has already been considered by court and the accused remanded under the permitted derogations contained in Article 18 (7) of the Constitution of the Republic of Seychelles.

The accused was formally charged with being in possession of 4.05 grams of Heroin ( Diamorpine). Thereafter the prosecution on the 20<sup>th</sup> day of August 2010 amended the charge to include the pure quantity of Heroin and the charge brought against the accused was being in possession of a preparation

weighing 4.05 grams containing 0.1215 grams of Heroin ( Diamorphine). Learned counsel submitted that the quantity was so small that it warranted that the accused be released on bail. It is to be noted that being in possession of such a quantity of Heroin attracts a minimum mandatory term of 5 years imprisonment on conviction. In the recent case of Aaron Simeon v Republic SCA 23 of 2009 the accused was convicted and sentenced to a term of 7 years imprisonment for being in possession of 0.0967 grams of Heroin a quantity less than in this case.

The drug concerned in this instant case is a class A drug and the possibility of the accused absconding when facing such a serious charge is present. Further there has been no unreasonable delay in the hearing of this case and there is a possibility that this case could be concluded within a reasonable time. Furthermore as the case proceeds the strength of the case against the accused becomes apparent and nothing precludes court from releasing the accused on bail during the pendency of the case, when the evidence against the accused is apparently weak though the charge may be of a serious nature.

Considering all the aforementioned circumstances of the case the application for bail is declined.

**M.N. BURHAN**

**JUDGE**

**Dated this 26<sup>th</sup> day of August 2010**