

SUPREME COURT OF SEYCHELLES

Reportable
[2021] SCSC 884
CO 48/2021

In the matter between:

THE REPUBLIC
(rep. by Evelyne Almeida)

Republic

and

EGBERT NOURRICE
(rep. by Alexia Amesbury)

1st Accused

HUBERT NOURRICE
(rep. by Alexia Amesbury)

2nd Accused

Neutral Citation: *Republic v Nourrice & Or* (CO 48/2021) [2021] SCSC 884 (13 December 2021).

Before: Burhan J

Summary: Trafficking in a controlled drug by possession of a controlled drug with intent to traffic – Possession of a controlled drug

Heard: 09 December 2021

Delivered: 13 December 2021

ORDER

Count 1 to a term of six months imprisonment.

Count 2 to a fine of SCR 2500. In default of payment of fine I impose a term of three months imprisonment.

Considering the circumstances peculiar to this case, I make order the sentence run concurrently with the term of imprisonment he is serving at present. At the end of serving his full term of imprisonment in both cases, he should be produced before this Court for him to be granted time to pay the fine of SCR 2500 imposed in respect of Count 2 in this case.

Time spent in remand to count towards sentence.

SENTENCE

BURHAN J

- [1] The 2nd accused Hubert Moses Nourice in this case pleaded guilty to the following two offences and was convicted on his plea of guilt;

Count 1

Trafficking by way of possession of a controlled drug with intent to traffic contrary to section 9 (1) as read with Section 19 (1) (d) (ii) of the Misuse of Drugs Act, 2016 and as read with section 22 (a) of the Penal Code and punishable under Section 7 (1) and Second Schedule of the Misuse of Drugs Act 2016.

The particulars of offence are that Egbert, Engelbert Nourrice of Val Den D'or, Mahe and Hubert, Moses Nourrice of Anse Royale, Mahe, on the 01st May, 2021, at Val Den D'or, Mahe, were trafficking a controlled drug by virtue of being found in unlawful possession of a controlled drug namely Cannabis Resin (Hashish) with a total net weight of 715.95 grams, giving rise to a rebuttable presumption of having possessed the said controlled drug with intent to traffic.

Count 2

Possession of a controlled drug contrary to Section 8 (1) of the Misuse of Drugs Act as read with Section 22 (a) of the Penal Code and punishable under the Second Schedule of the Misuse of Drugs Act 2016.

Egbert, Engelbert Nourrice of Val Den D'or, Mahe and Hubert, Moses Nourrice of Anse Royale, Mahe, on the 01st May, 2021, at Val Den D'or, Mahe, were found in possession of a substance with a total net weight of 0.77 grams containing a controlled drug, namely, heroin.

- [2] The aforementioned 2nd accused was charged with his father Mr. Egbert Engelbert Nourice in respect of both Counts. The 2nd accused on the 29th October 2021, pleaded guilty to both the aforementioned charges whilst the 1st accused maintained his plea of not guilty.
- [3] At the request of learned Counsel Mrs. Amesbury, a probation report was called prior to sentencing the 2nd accused. According to the report the 2nd accused is 21 years of age and although in a relationship with a lady has no children. The accused according to the report had dropped out of school at Secondary four. The accused admits he is a controlled drug user but has recovered from his addiction with Heroin and Cocaine after undergoing Methadone treatment for five months in 2020. He admits however he still users Cannabis. It is apparent from the report that his addiction to Cannabis has commenced from the early age of ten years. The drug test conducted on the accused on the 16th of November 2021, indicates he was positive for Cannabis only. The probation recommends that the Court consider the circumstance of the 2nd accused when passing sentence.
- [4] Learned Counsel Mrs. Amesbury in mitigation submitted that she relied on the facts set out in the probation report. She maintains the fact that the controlled drugs found in his possession were for his own use and that he had pleaded guilty at the first opportunity without wasting the time of Court. She also made a plea that the sentence be ordered to run concurrently with the other sentence he is serving.
- [5] I have considered the circumstances before me. The accused has pleaded guilty without wasting the time of Court and thereby expressed remorse and regret at what he has done. I observe his plea came at a stage when the prosecution was having issues in respect of the evidence given by their main witness. Despite this fact he took it on himself to plead guilty which is appreciated by Court and thereby saved the precious time of Court and time of witnesses and the related expenditure in respect of a long drawn out trial. Further the recommended sentence for such an offence is a maximum of 2 years imprisonment.
- [6] Giving due consideration to all these facts, I proceed to sentence the 2nd accused Hubert Moses Nourice as follows:
- Count 1 to a term of six months imprisonment.


Count 2 to a fine of SCR 2500. In default of payment of fine a sentence of three months imprisonment.

[7] Considering the circumstances peculiar to this case, I make order the sentence run concurrently with the term of imprisonment he is serving at present. At the end of serving his full term of imprisonment in both cases, he should be produced before this Court for him to be granted time to pay the fine of SCR 2500 imposed in respect of Count 2 in this case.

[8] Time spent in remand to count towards sentence.

[9] Right of appeal explained. Copy of this sentence to be attached to the warrant of commitment.

Signed, dated and delivered at Ile du Port on 13 December 2021



M Burhan J