

SUPREME COURT OF SEYCHELLES

Reportable
CO 03/2025

In the matter between:

THE REPUBLIC
(rep. by Mr Adam Afif)

Prosecution

versus

RINO D'UNIENVILLE
(rep. by Mr Basil Hoareau)

3rd Accused

Neutral Citation: *The Republic v Rino D'unienville & Ors* (CO 03/2025) 4th February 2026
Before: N. Burian, J
Summary: Bail Application
Heard: 15th January and 21st January 2026
Delivered: 4th February 2026

RULING ON BAIL

N. BURIAN, J

BACKGROUND FACTS:

- [1] This Ruling arises from a bail application of Rino Barry D'Unienville (referred to as 'Accused No. 3') in which he is asking to be released on bail pending trial.
- [2] Accused no.3 was charged on the 20th January 2026 under the 2nd amended formal charge together with 2 others under count 1 for *agreeing with another person or persons to commit the offence of importation of a controlled drug*.
- [3] He has been on remand since 30th January 2025, and on the 30th May 2025 was denied bail and remanded into custody. The trial is due to commence on the 18th May 2026

through to 12th June 2026. On the 12th November 2025 Accused No.3 filed a fresh bail application which is detailed below.

BAIL APPLICATION OF RINO BARRY D'UNIENVILLE:

- [4] The Affidavit submitted in support of the application alleges that the prosecution has failed to establish a prima facie case against Accused No.3 and that by the time the case is to be heard he would have been on remand for nearly 17 months if not released on bail.
- [5] The conditions of his detention at the prison are described as inhumane. It is averred in the affidavit in support of the motion that on numerous occasions and for extended periods there has been no running water servicing the toilet facilities and that this lack of water is not only inhumane but also unhygienic, especially given the number of detainees relying on the same toilets.
- [6] Accused No.3 has stated in his Affidavit in support of his motion for bail, that he is prepared to abide to any reasonable conditions to secure his attendance before the court and to also ensure that he does not obstruct the course of justice in any manner whatsoever.
- [7] The prosecution are objecting to the application for bail and are relying on the facts and circumstances as laid out in the initial affidavit duly sworn by Detective Corporal Ruddy Pillay and the 2nd affidavit duly sworn by Detective Sergeant Stenio Cadeau in support of their position.
- [8] To ensure that all relevant facts were before the Court, I requested that a report be provided by the prison authorities addressing the allegations of inhumane conditions at the Montagne Posse prison ('Prison'). The report dated 31st December 2025 confirmed that Accused No.3 is currently housed at CTU Foxtrot dormitory and that at the time of the allegation, the dormitory had an operational capacity of 12 but housed only 9 inmates. The dormitory has 2 toilets meaning one toilet for every 4 to 5 inmates. To maintain the hygiene of the toilets, the inmates in the dormitory are issued with an all-purpose toilet cleaner once a month and that they have in their unit mops, brooms and a dustpan. Furthermore, it is their responsibility to clear their unit, including their toilet facilities, on

a daily basis. It further confirmed that all facilities have access to running water and that water is always accessible except in times when there were water restrictions imposed by the Public Utilities Corporation ('PUC'). It was, however, acknowledged that in the past six months there has been nationwide water restrictions and that on the 9th September 2025 the Prison issued a memorandum to all its inmates advising them of the said restrictions. Following those restrictions inmates were encouraged to store water in their facilities and it was confirmed that the restriction ended early November 2025. To conclude, it was submitted that the conditions within the dormitory do not support the allegations of inhumane or unhygienic treatment as alleged by Accused No.3.

SUBMISSIONS BY COUNSEL:

- [9] Counsel for Accused No.3 acknowledged that this was the second bail application filed on his client's behalf. He contended that there had been a material change in circumstances, namely, that the conditions of detention at the Prison were inhumane, as alleged at paragraph 10 of the supporting affidavit. It was submitted that, while in custody, an accused person falls under the responsibility of the State, which bears a duty to ensure that his treatment complies with constitutional standards. Counsel further argued that applications for bail fall within the discretionary jurisdiction of the Court and ought to be approached in an inquisitorial manner so as to enable a fully informed determination.
- [10] It was averred that, over extended periods, Accused No.3 had been deprived of access to water, and that the authorities could not lawfully detain a person in inhumane conditions. Counsel submitted that, where the State is unable to guarantee minimum standards of detention, continued custody cannot be justified. He further invited the Court to reassess whether the accused constituted a flight risk, noting that other co-accused had been released on bail without incident. Emphasis was also placed on the prolonged duration of the accused's remand prior to the commencement of trial. In the circumstances, counsel urged the Court to grant bail subject to stringent conditions, including a curfew, regular reporting to the police, the provision of a contact number, and a restriction confining the

accused to Mahé pending trial. He reminded the Court that the accused remains presumed innocent and is entitled to the full protection of his constitutional rights.

[11] In response, the prosecution opposed the application, characterising it as frivolous and maintaining that no genuine change in circumstances had been demonstrated. It was argued that the allegation of inhumane conditions had not been substantiated, as reflected in the report submitted by the Prison Services. The prosecution further submitted that the grounds for refusal of bail remained unchanged, in particular the risk of absconding, which had been comprehensively addressed in the Court's ruling of 30 May 2025. State counsel cautioned that granting bail on the basis of alleged prison conditions would set an undesirable precedent, potentially enabling similarly situated detainees to seek release on identical grounds.

[12] It was further submitted that the present matter was distinguishable from the case of Mukesh Valabhji (relied upon by counsel for Accused No.3) in which bail had been granted on medical grounds following an extended period of remand exceeding four years. In the instant case, the prosecution maintained that there remained a heightened risk of interference with the administration of justice, particularly in light of conditional offers made to former co-accused. It was further contended that no reasonable or sufficient conditions could adequately mitigate these risks.

[13] Counsel for Accused No.3, in reply, observed that notwithstanding its opposition, the prosecution had elected not to file an affidavit in response. He submitted that, in the absence of sworn rebuttal, the averments contained in the supporting affidavit stood uncontroverted. He further invited the Court to summon the investigating officer or the Commissioner of Prisons to provide clarification in relation to the report dated 31 December 2025, in order to enable a proper assessment of the detention conditions complained of.

EXAMINATION OF ACTING CHIEF INSPECTOR GERRY URANIE:

[14] The Court accordingly summoned Acting Chief Inspector Gerry Uranie, Head of the Custodial Department at the Seychelles Prison Service, to give evidence in relation to the

contents of his report dated 31 December 2025, which was produced and admitted as Exhibit P1. In his testimony, Acting Chief Inspector Uranie stated that barrels had been provided to each unit for the purpose of collecting and storing water for use during periods of restriction. However, he was unable to recall the number of barrels allocated to Accused No.3's dormitory and could not confirm whether the supply was adequate to meet the inmates' needs.

[15] He further testified that an internal memorandum had been circulated to inmates indicating that water would be available for a period of eight hours and thirty minutes within each twenty-four-hour cycle. He acknowledged, however, that he was not in a position to confirm whether this arrangement was consistently implemented in practice. It was put to the witness that inmates were, on occasion, required to collect water from a nearby river in buckets for bathing purposes. Acting Chief Inspector Uranie stated that he was not aware of this practice nor was he able to confirm whether inmates in the relevant dormitory were, at times, left without running water to service the unit.

[16] With regard to the prevailing situation at the time of the hearing, Inspector Uranie testified that, to his knowledge, water restrictions were no longer in place, as he had received no recent reports to that effect. He confirmed that the Prison was equipped with water storage tanks but acknowledged that these were insufficient to fully mitigate the effects of the restrictions imposed by the PUC. He maintained that the Prison Service continued to work towards providing inmates with humane conditions of detention and denied that the facility was unfit for purpose.

[17] Acting Chief Inspector Uranie further confirmed the existence of a formal complaints mechanism whereby inmates may lodge grievances, which are recorded and processed in accordance with established procedures. He stated that he did not recall receiving any complaint from Accused No.3 in respect of water supply and was unable to confirm the precise capacity of the barrels provided for collection purposes.

[18] In his concluding submissions, counsel for Accused No.3 argued that it had not been disputed by the Prison Service that inmates were required to collect and store water due to insufficient supply, nor that water was available for only eight hours and thirty minutes

per day during the relevant period. He submitted that such circumstances inevitably gave rise to hygiene concerns. While acknowledging that the situation had since improved, counsel maintained that, at the time the present application was filed, Accused No.3 had been subjected to inhumane conditions of detention. Counsel further submitted that the risk of recurrence remained, particularly in the event of future drought conditions, and that the prison appeared to be dependent on favourable weather patterns rather than sustainable infrastructure. He emphasised that inmates and remandees are human beings under the custodianship of the State, which bears a positive duty to ensure their welfare. He reminded the Court that remand prisoners remain presumed innocent and are entitled at all times to humane treatment consistent with constitutional standards.

- [19] In response, the prosecution submitted that adequate containers had been provided to inmates and that it was incumbent upon them to ensure that sufficient water was stored during periods of restriction. It was further argued that the Prison Service report demonstrated that reasonable measures had been taken to safeguard humane conditions and to ensure access to water. The State maintained that, when weighed against the risks posed by Accused No.3, the balance of considerations continued to favour his continued detention pending trial.

LAW AND ANALYSIS:

- [20] The Court has carefully considered the motion for bail filed on behalf of Accused No.3, premised on an alleged change in circumstances, namely that he has been subjected to inhumane conditions of detention arising from water restrictions at the Prison. The Court has further taken into account the report of the Seychelles Prison Service dated 31 December 2025 and the oral testimony of Acting Chief Inspector Gerry Uranie.
- [21] The evidence establishes that, during the relevant period, water restrictions were imposed at the Prison, resulting in limited access to running water and the need for inmates to collect and store water. The Court accepts that such conditions may have rendered detention more difficult and uncomfortable. However, discomfort and inconvenience, without more, do not in themselves amount to inhuman or degrading treatment.

- [22] It is a matter of public record that, during the same period, water restrictions were imposed nationwide due to shortages affecting the entire population. The Prison was not singled out for differential or punitive treatment. The PUC being the sole supplier of water in this jurisdiction, all residents of Seychelles were subjected to similar limitations. In these circumstances, the restrictions cannot be characterised as arbitrary, discriminatory, or deliberately inflicted upon detainees.
- [23] The Court further notes that, notwithstanding the prevailing constraints, the Prison Service took steps to mitigate the impact of the restrictions by providing storage containers and maintaining water tanks, and by implementing measures intended to ensure continued access to water. While these measures may not have been ideal, they demonstrate reasonable efforts by the authorities to preserve humane standards of detention.
- [24] It is also well established that lawful detention necessarily entails the restriction of certain rights and liberties. Remand is not intended to be punitive, but it is equally not equivalent to ordinary civilian life. As stated in numerous jurisdictions, the fact of imprisonment inevitably involves hardship and inconvenience. Such hardship only becomes constitutionally impermissible where it crosses the threshold of cruelty, inhumanity, or degradation.
- [25] In order to determine as to whether this threshold has been crossed, the Court has considered applicable local jurisprudence. In Seychelles, the courts have consistently held that bail is to be determined primarily by reference to the interests of justice, including the risk of absconding, interference with witnesses, and the proper administration of justice. Whilst conditions of detention are a relevant factor, they must disclose exceptional circumstances before they may outweigh these considerations.
- [26] In the case of *R v Valabhji & Ors*¹ Learned Counsel for the applicant relied on what she submitted were the applicant's difficult detention conditions and their effect on her physical and mental health. The court observed that the detention would be unfair and inhumane if its impact would cause the applicant undue physical and mental suffering as

¹ (CO 4 of 2022) [2023] SCSC 746 (3 October 2023)

opposed to certain distresses and discomforts, which comes with all court ordered detention. It was further observed that the prison authorities had in that instance substantially abided by court orders and were able to address any complaints raised by the accused.

- [27] In the case of *Republic v Volcere*² it was acknowledged by the court that every person has a right to be treated with dignity worthy of a human being and not to be subjected to torture, cruel, inhuman or degrading treatment or punishment. However, it was noted that when a person is detained in prison by virtue of any lawful order of the Court, his or her general civil rights are impliedly suspended and that such a detainee cannot complain and claim preferential or special treatment or comforts of his choice and lifestyle, in order to have a separate bathroom, bedroom etc. in prison. Furthermore, it was determined that:

“Courts cannot and should not entertain such complaints and intervene in matters of prison administration, management and security issues, which all should be left to the good sense of the authority concerned, unless extraordinary circumstances exist in a particular case to warrant such judicial intervention. It is easier for any detainee or prisoner to complain that he or she is not able to enjoy all comforts of life and five-star facilities in the prison, than to remember an important fact of life that prison is not his or her private home. It is a public building used and meant to house convicted criminals and accused persons remanded in custody awaiting trial...”

- [28] Additionally, the Court is guided by comparative jurisprudence. In *Bell v Wolfish*³ it was held that in evaluating the constitutionality of conditions or restrictions of pre-trial detention the proper inquiry is whether these conditions or restrictions amount to punishment of the detainee. Absent a showing of an expressed intent to punish, it does not, without more, amount to ‘punishment’ but conversely, if a condition or restriction is arbitrary or purposeless, a court may permissibly infer that the purpose of the governmental action is punishment.

- [29] This Court takes the view that because prison inmates retain certain constitutional rights does not mean that these rights are not subject to restrictions and limitations. To maintain institutional security and preserving internal order and discipline are essential goals that may require limitation or retraction of the detainee’s constitutional rights. Additionally,

² (34 of 2005) [2005] SCSC 18 (10 November 2005)

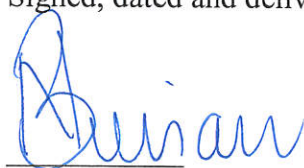
³ 441 U.S. 520

some problems that may arise in the day to day operation of prisons are not susceptible of easy solutions and as such prison authorities should be accorded wide discretion in the adoption and execution of policies and practices that in their judgment are needed for the proper operation of the institution.

CONCLUSION AND ORDER:

- [30] Taking all the above jurisprudence into account and having assessed the totality of the evidence, this Court is not satisfied that the water restrictions experienced by the accused, viewed in their national context and in light of the mitigation measures implemented by the Prison Service, amounted to inhuman or degrading treatment. Nor is the Court persuaded that these circumstances constitute a material change sufficient to displace the findings made in the ruling of 30 May 2025 concerning flight risk and interference with the administration of justice, particularly so now that that co-accused have turned state witnesses.
- [31] While the Court remains vigilant to its constitutional duty to safeguard the dignity and welfare of all persons in custody, including remand prisoners who remain presumed innocent, the present evidence does not demonstrate a breach of that duty of such gravity as to justify release on bail.
- [32] Accordingly, the Court finds that no sufficient change in circumstances has been established. The application for bail is therefore refused. The accused shall remain in lawful custody, subject always to the continued obligation of the authorities to ensure that his conditions of detention comply with constitutional and statutory standards.

Signed, dated and delivered at Ile du Port on 4th February 2026



N. Burian, J

