

SUPREME COURT OF SEYCHELLES

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Reportable  
[2025]  
CO63/2024

In the matter between:

**THE REPUBLIC**  
*(rep. by Ms Corine Rose)*

**Prosecution**

versus

**MYRIAM D'UNIENVILLE**  
*(rep. by Mr Basil Hoareau together with Mr Tony Juliette)*

**1<sup>st</sup> Accused**

**JEAN-FRANCOIS ADRIENNE**  
*(rep. by Mrs Alexia Amesbury)*

**2<sup>nd</sup> Accused**

**NEDDY MICOCK**  
*(rep. by Mrs Alexia Amesbury)*

**3<sup>rd</sup> Accused**

**AARON DUGASSE**  
*(rep. by Mr Joel Camille)*

**4<sup>th</sup> Accused**

**ORIS TIRANT**  
*(rep. by Mr Rajasundaram)*

**5<sup>th</sup> Accused**

**DYLAN KATE**  
*(rep. by Mr Basil Hoareau)*

**6<sup>th</sup> Accused**

**SONNY VALENTIN**  
*(rep. by Mr Tony Juliette)*

**7<sup>th</sup> Accused**

**CRAIG FERLEY**  
*(rep. by Mr Joshua Revera)*

**8<sup>th</sup> Accused**

**LISA FRANCHETTE**  
*(rep. by Mr Joshua Revera)*

**9<sup>th</sup> Accused**

**ALFREDO ERNESTA**  
*(rep. by Mr Joshua Revera)*

**10<sup>th</sup> Accused**

**ROBIN MICOCK**  
*(rep. by Mr Ryan Laporte)*

**11<sup>th</sup> Accused**

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**Neutral Citation:** *The Republic v Myriam D’unienville & Ors* CO63/2024 [2025] 27<sup>th</sup> March 2025  
**Before:** A. Madeleine, J  
**Summary:** Bail Application  
**Heard:** 27<sup>th</sup> March 2025  
**Delivered:** 27<sup>th</sup> March 2025

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## RULING

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### A. MADELEINE, J

#### Background

- [1] This Ruling arises from the application of Accused No. 4 – Aaron Dugasse – to be released on bail pending trial.
- [2] Accused No. 4 was formally charged on 13<sup>th</sup> February 2025 under amended formal charge together with 10 others. He is charged under count 5 of the said formal charge for *Agreeing with another person or persons to commit the offence of importation of a controlled drug*.
- [3] The particulars of count 5 of the charge as amended is as follows –

*“Aaron Dugasse, 30 years old skipper, residing at Marie Jeanne Estate, Praslin and Myriam Patricia D’unienville, 49 years old, Self Employed, residing at Anse Possession, Baie Ste Anne Praslin, Jean Francois Adrienne. 58 years old convict currently serving sentence at Montagne Possee Prison, Mahe and Neddy Mickok, 51 years old convict currently serving sentence at Montagne Possee Prison, Mahe on the 07<sup>th</sup> October 2024 agreed with one another that a course of conduct shall be pursued which if pursued will necessarily amount to or involve the commission of an offence of conspiracy to import a controlled drug into Seychelles, namely Cannabis (Herbal Materials) with a net of 29.94kg, Heroin (Diamorphine) with a net weight 25.19kg and Hashish (Cannabis Resin) with a net weight of 137.18k”*

[4] Accused No. 4 has been on remand since formal charge on 13<sup>th</sup> January 2025 on the basis that the said Accused No. 4 did not object to the said application. Extract of transcript of Supreme Court proceedings of 13<sup>th</sup> January 2025 is reproduced below –

*“Court: So your clients have been served with the applications?”*

*Mr. Juliette: Yes, no objection in respect of the 7<sup>th</sup>.*

*Court: Yes.*

*Mr. Hoareau: My Lord anyway I will not be objective on behalf of the first Accused person and in respect that - I believe the notice of motions is in respect of first four Accused people.*

*Court: Yes.*

*Mr. Hoareau: So far, yeah.*

*Court: So Mr. Hoareau what's your position please?*

*Mr. Hoareau: No objections.*

*Court: No objection for the first Accused person?*

*Mr. Hoareau: Yes, indeed.*

*Mrs. Amesbury: Mrs. Amesbury no objection for the second and third Accused.*

*Court: Second and third Accused.*

*Mr. Camille: My Lord no objection for the 4<sup>th</sup> Accused at this point*

Court: Yes. So they're being- I think this applies only for the first 4, is it?

Ms. Alcindor: Yes, my Lord.

Court: *There being no objection with regards to the first 4 Accused with regards to the application made under section 179 of the Criminal Procedure Code and Article 18 7 of the Constitution are supported by the affidavit of Del PC Nicholette Marie. The Court will grant the application and remand the first 4 Accused in police custody up to the-”<sup>1</sup>*

[5] Remand of Accused no.4 and the others was sought on the following grounds –

*(i) seriousness of the offence as impacted by the severity of sentence;*

*(ii) reasonable grounds to believe that the accused will not appear for the trial and / or do other activity considering the seriousness of the offence and severity of the punishment;*

*(iii) the owner of the boat, Guru has fled the country and it is highly likely that he could contact the Respondents if they are released on bail [...]*

*(iv) evidence shows a real structured operation in business both locally and internationally and if released on bail, ongoing investigations may be jeopardized;*

*(v) the importation of controlled drug is a growing issue in Seychelles with serious societal impacts and the suspected drugs seized are of high commercial value. If it had reached the local market it would have severely impacted the community especially in a time when drug social problems are increasing amongst the younger generations;*

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<sup>1</sup> Pp.11 and 12 Proceedings of 13 January 2025 at 0900am

[6] The involvement of Accused no. 4 is made out in paragraph 19 of the Affidavit of WPC Nicolette Marie reproduced below –

*“19. In the investigation it was also revealed that on the 7<sup>th</sup> October 2024 the Iranians trafficker sent a picture to the 1<sup>st</sup> Respondent showing two (2) Cylinders and that the same cylinder that was seized. That the Seychelles Coast Guard patrol ship intercepted the boat the “Guru” and a total of five gas cylinders were retrieved. The same day 1<sup>st</sup> Respondent sent a picture to number 2578282 that is registered on one Aron Dugasse (hereinafter the 4<sup>th</sup> Respondent) showing a picture of a position 04.18.886’S 055.55769’E and a picture of the boat Guru and then asked him (Ki dil pou ok sa dil) ‘whats up that stuff will be ok’ (fodre ou les mon konnen napa bokou letan pou mon konnen ki pou fer) ‘you have to let me know because I don’t have much time to know what to do’. 4<sup>th</sup> Respondent then sent an audio message saying (Yes tomorrow we will come because today we were busy). She replied by asking (do you think that guy is serious because this morning he was contacted, and he stated that he was at sea later he will call back and he never call. Pti Zan contacted him, and he never responded to the calls. If he cannot do the work, it’s better that he informs me so I can do another manoeuvre. We don’t have much time we will fail.”*

#### Bail Application

[7] By notice of motion supported by affidavit Accused No. 4 objects to “a further order for me to be remanded in custody and apply that the court be pleased to release me on bail subject to conditions.”

[8] The reasons for the application are that –

(a) the Republic’s application and supporting affidavit for remand is defective and lacking as there are no averments as to Accused. No.4’s involvement in the charge against him. As such they cannot establish his involvement in the any criminal

offences and cannot seek his further detention on the basis of paragraph 19 of the supporting affidavit;

(b) Accused no. 5 -11 have all been enlarged on bail subject to conditions while Accused no. 1 is remanded in other cases before the court and Accused no. 2 and 3 are serving terms of imprisonment. On the principle of parity, the court ought to consider releasing him on bail on the same basis as Accused no. 5 -11;

(c) Accused no. 4 is able and willing to abide by whatever conditions that the court shall deem fit to ensure his appearance before the court.

[9] The Republic objects to the bail application and in their reply to the said motion dated 6<sup>th</sup> March 2024, relies on the *“facts and circumstances stated in the affidavit duly sworn by the Investigating Officer in support of the application for remand in custody of the Applicant therein.”*

[10] In their reply, the Republic referred the court to several authorities (*Roy Beeharry v Republic [SCA8/2011]*; *Francis Barreau v The Republic (SCA7/2011)*; *Steve Hoareau v Republic (sca28/2010)*; *Andrew Michael Fernandez CRNo.17/2010*; *Republic v Terence Alphonse CR47/2006* to submit that the offence is of a serious nature with significant implications for public interest and justice, there remains a real risk of interference with witnesses and absconding, the principle of parity does not justify release given the differing circumstances of the accused person and there are no change in circumstances demonstrated to warrant reconsideration of the court’s previous decision.

[11] Mr Camille, submitted that the Accused’s bail application is based on the fact that in the affidavit WPC Nicoletta Marie in support of remand application, the allegation against him specifically is on the lesser side as his participation in the offence is secondary. Accused people’s number 5 to number 11 have all been enlarged on bail subject to conditions set by this very Court. Whereas Accused number 1,2,3, they are- two of them, in fact Accused 2 and 3 they are serving time, they are serving a term of years, they are convicted. Whereas

Accused number 1 She has along with this case, two other cases before other Courts whereby she is being remanded, so in essence Mr Dugasse in comparison to the other Accused person who are remanded in custody, he has a lesser participation and he only has this one case before the Court which brings him to parity in parity to Accused number 5 to Accused number 11 all of which have been enlarged on Bill subject to conditions.

- [12] Counsel moved that the Accused is enlarged on bail on the same basis as the other Accused persons has been released on a bail subject to conditions. It is further submitted that the purpose of remand is not to punish as the Accused has not been convicted, but only to ensure that each and every time his case comes before the Court, he is present. I The Court can release the Accused on the bail but ensure that there are conditions imposed on him to make sure that each time his case is called, he comes before the Court which he is able and willing to abide by whatever conditions the Court would apply to secure his appearance before the Court. It is not clear when this matter will be disposed of, which may well be next year in view that the Court's diary is looking at dated in November and December. There is a greater possibility that this case will be heard next year, so is really no necessity to keep him in custody to deprive him of his liberty only to make sure that whenever the case is called, he is before the Court. Also, on the principle of parity to Accused number 5 to 11 the Accused has been released on a bail. Accused's circumstances are different to 1<sup>st</sup> to 4<sup>th</sup> Accused persons.

- [13] In their submissions, the Prosecution relied on their reply, the affidavit of WPC Nicoletta Marie dated 13<sup>th</sup> January 2025 and the authorities referred to in their reply to oppose the release of the Accused on bail.

#### Analysis

- [14] Prior to addressing the merits of the bail application, I note that the prosecution has filed a reply unsupported by affidavit to the notice of motion of the Accused. The proper procedure to reply to affidavit evidence is by way of an affidavit. That is even the case where a party seeks to rely entirely on a previous affidavit sworn in the matter. However, in view that the current bail application challenges the grounds/reasons for his detention under the Affidavit of WPC Nicoletta Marie dated 13<sup>th</sup> January 2025, I proceed to determine the application and consider the prosecution's reply and submissions.

- [15] I now consider the law relating to bail pending trial, in particular Article 18(7) of the Constitution read with section 179 of the Criminal Procedure Code and the case of *Roy Beeharry v Republic* –

*“A person must be released unless the state can show there are relevant and sufficient reasons for continued detention, including an assessment of risks of absconding or re-offending.*

*Continued detention can be justified if there are specific indications of a genuine requirement of public interest, which, notwithstanding the presumption of innocence, outweighs the rule for respect of individual liberty.*

*To support detention, the prosecution must show a prima facie case against the accused, and where not released on bail, the accused has the right to be tried within a reasonable time.*

*Further, that seriousness of the offences charged and the severity of the penalty linked to that offence though relevant to a decision of whether the accused should be refused bail and denied the right to personal liberty, are not of themselves grounds for refusing bail.*

- [16] The first objection to continued detention of the Accused is based on the alleged defect in the supporting Affidavit of WPC Marie dated 13<sup>th</sup> January 2025 in not establishing a prima facie case against the Accused to warrant his remand to custody pending trial.
- [17] I consider that the Accused is presumed to be innocent until he pleads or is proven to be guilty and the right to personal liberty dictates that unless the risks inherent his release on bail pending trial cannot be made negligible by the imposition of stringent conditions he should be released on bail. Bail is the rule and remand is the exception.
- [18] Having considered paragraph 19 of the supporting Affidavit of WPC Marie, I cannot agree with defense counsel that the said affidavit is defective to the extent that is lacking in averment showing Accused. No.4’s involvement in the charge against him. In my view, paragraph 19 discloses the nature of the evidence against Accused no. 4 in the criminal enterprise for which he is charged under count 5 of the amended formal charge dated 13<sup>th</sup>

January 2025. At this stage, I am not required to go in-depth into the evidence but I have to be satisfied ex-facie that there is a prima facie case against the Accused in the charge preferred so as to warrant remanding him to custody if stringent conditions cannot make the risks of, inter alia, absconding negligible.

[19] The next objection to the continued detention of the Accused person is on the basis of the principle of parity. Counsel argued that Accused no.4's participation is secondary and comparable to the participation alleged in relation to Accused no. 5 to 11 who have been enlarged on bail. Counsel also sought to distinguish the role of Accused no.4 from that of Accused no. 1-3 who are remanded to custody.

[20] It is noted that the prosecution never sought the remand of Accused no. 5 – 11 when they were charged in October 2024. It is also noted that the release of Accused no. 4 on bail is strenuously opposed.

[21] For the purposes of the present application moved by Accused no. 4, and considering the charge against the said Accused and his alleged involvement as made out in paragraph 19 of the Affidavit of WPC Marie of 13<sup>th</sup> January 2025, I am of the view that there are relevant and sufficient reasons for the continued detention of Accused no.4 in custody pending trial.

[22] The third objection for the continued detention of the Accused is the unlikelihood that the trial will be disposed of this year. I note that the Accused was charged on 13<sup>th</sup> January 2025. He is yet to plead to the charge and therefore trial dates are yet to be fixed. I agree that the Accused has the right to be tried within a reasonable time. There are abundant authorities within this jurisdiction as to what amounts to a reasonable time, but at this stage the application to be released on this ground is premature.

#### Order

[23] Based on all the above, I dismiss the Application for bail. Accused no. 4 is remanded to custody.

Signed, dated and delivered at Ile du Port on 27<sup>th</sup> March 2025

*A. Madeleine J.*  
A. Madeleine J.

