

SUPREME COURT OF SEYCHELLES

Reportable
CR06/2025

In the matter between:

THE REPUBLIC
(rep. by Mr. Affif)

Republic

and

BRUNA SANTOS DE OLIVEIRA
(rep. by Ms. Gill)

Accused

Neutral Citation: *The Republic v Santos De Oliveira* (CR06/2025) 28th May, 2025

Before: R. Govinden CJ

Summary: Sentence – Importation of a controlled drug contrary to and punishable under Section 5 read with the second schedule of the Misuse of Drugs Act, 2016

Heard:

Delivered: 28th May, 2025

ORDER

I proceed to sentence the convict to a term of 28 years' imprisonment;

The convict shall not be entitled to remission in view of the aggravating factors in the case;

Time spent on remand shall be deducted from the sentence;

If unsatisfied with this sentence, the convict may appeal against the same within 30 working days from today.

SENTENCE

GOVINDEN CJ

[1] The Convict stands convicted on her own guilty plea on the following offence:

Statement of offence

Importation of a controlled drug contrary and punishable under Section 5 read with Second Schedule of the Misuse of Drugs Act, 2016.

Particulars of Offence

Bruna Santos De Oliveira, 25-year-old female Brazilian national, holding Passport number GK307050, on the 15th January 2025, on board the flight EK705 coming from Dubai, United Arab Emirates, imported into Seychelles a controlled drug, namely, Cocaine inside her suitcase, having an estimated weight of 4523.8 grams, with an average purity of 24%, containing 1085.7 grams of pure Cocaine.

- [2] A probation report was requested by her Counsel Ms. Gill prior to mitigation. The probation report states that the convict Bruna Santos De Oliveira is a twenty-five-year-old mother of one and is of Brazilian nationality. Her living situation compelled her to commit the offence believing it would improve her quality of life. She faces financial constraints which may have contribute to current circumstances. She possesses low self-esteem and is susceptible to external influences making her vulnerable of being manipulated. She expressed profound remorse for her actions and experiences emotional distress and depression, therefore seeking professional support to navigate her circumstances. She acknowledges that substance abuse is a challenge within our community. She has yet to share the truth with her family and have placed emotional and financial burden on her family as they care for her child. She acknowledged the seriousness of the matter and society's intolerance of such behaviour.
- [3] Learned Counsel in mitigation submitted along the lines of the probation report's assessment of the convict. The convict has pleaded guilty to the charge of importation of a controlled drug contrary to and punishable under Section 5 of the Misuse of Drugs Act, 2016 read with the second schedule of the said Act. She is a first time offender and has pleaded guilty on the first available opportunity, therefore has not wasted the Court's time by going to trial and calling on witnesses. She submitted that as per Section 49(a) of the Misuse of Drugs Acts, 2016, the offender's admission of truth of the charge through a guilty

plea, at an early stage is a mitigating factor to be considered. With regard to the convict's personal circumstances, Counsel submitted that she has one minor son. She is a devout worshipper and follower of the Roman Catholic faith, she regrets what she has done and has understood and accepted responsibility of the harm it would have had on innocent people in this country. Counsel submitted that she is instructed that the convict has never been involved in any drug related transactions in her life prior to this incident and that in the commission of the offence there was no other person who was directly harmed. Prior to leaving Brazil her living condition was far from ideal as she was living in a one-bedroom house with one of her brothers as well as her minor son who is now in the care of his paternal aunt. She only wishes to find a way to improve her financial situation so as she could ensure that her son lacks nothing and as a mother, this is always her priority in life.

[4] She was led to believe that it was easy for her to travel to Seychelles with drugs and return back to Brazil without issue, to which she would have obtained 17,000 U.S. dollars for her efforts. Driven by a lack of understanding of what she was getting involved in, not fully understanding or comprehending the repercussions of her actions, and feeling pressured to go ahead with this trip, her vulnerability was exploited, leaving her appearing before this Court, full of regret, shame and humiliation and begs for forgiveness. Counsel submitted that in considering the sentence to be imposed on the convict, one needs to balance the interests of the adverse effects that an accused person's conduct has on his or her family with that of a whole community.

[5] Learned Counsel referred to the case of Dos Santos versus the Republic, and the case of Suki versus the Republic. In the case of Suki versus the Republic, where although the requirement for consistency in sentencing is one of the underpinning principles of equality before the law and is a useful aid to assist the Court in determining an appropriate sentence, each case, must be decided on its own merits. Counsel further submitted that the Court should also have regard to the indicative minimum sentence which is at 20 years' imprisonment as per Schedule 20 of the current Misuse of Drugs Act, 2016. Furthermore, counsel submitted that in the case of Osama Brandon Casime and Hilfa Nora Casime versus the Republic SCA7 and 8 of 2019, the Court held that sentences in and of themselves do not delimit the exercise of discretion and are not binding precedence. The sentencing

exercise is not merely the imposition of a number in a previous decision presenting similar circumstances. Rather, it is an exercise of discretion in which the sentencing judge must tailor a sentence according to the particular circumstances of the case. She submitted that in meting sentence it was held in that particular case the classic principles of sentencing are a deterrence and a prevention, but also rehabilitation, reformation and retribution.

- [6] With respect to the drugs found in this present case she notes that the pure quantity of the controlled drug imported was at 1085.7g with a total estimated weight of 4523.8g. The exact pure quantity of cocaine has not been established. In the case of the Republic versus Dixon and others that is citation CO50 of 2022, the learned trial judge imposed a sentence of five years' imprisonment for the count of importation of a controlled drug, namely cocaine with a total net weight of 4164.50 grams because the prosecution had not been able to determine the pure quantity of controlled drug imported, the accused was entitled to remission at the discretion of the Superintendent of Prison. She finally submits that in considering the sentence to be imposed, to carefully consider a sentence that would be fair, reasonable and proportionate which would take into consideration the circumstances of the offence as well as the convict's personal circumstances.
- [7] In meting out a sentence in this case, the provisions of the Misuse of Drugs Act (MODA) 2016 are relevant. The maximum sentence for importation of a class A drug is life imprisonment and the indicative minimum sentence is 20 years' imprisonment and a fine of SCR 1 million. It provides that where an aggravating or mitigating factor as specified in the law applies, the Court shall expressly identify and give weight to it in considering the appropriate sentence. Aggravating factors are set out in Section 48(1) of MODA which includes among others (a) the presence and degree of a commercial element in offending, particularly where controlled drugs have been imported into Seychelles. This factor is undoubtedly relevant to the facts and circumstances of this case. Where one of this factor is present, the Court shall treat the offence as aggravated. As per Section 7(4) of MODA, where a person is found guilty of trafficking more than 250 grams of cocaine, the Court shall treat the offence as aggravated in nature. The convict in this case imported 4523.8 grams of cocaine, with an average purity of 24%, containing 1085.7 grams of pure Cocaine. Also, in view of this quantity of drugs, there is no doubt that there is the presence and

degree of a commercial element in the offending. The negative consequences of this drug potentially entering the market, particularly for such a small population, pauses a serious concern.

- [8] I have given due consideration to all the aforementioned facts contained in the probation report and the plea in mitigation made by Counsel Ms. Gill on behalf of the convict. I find that the mitigating factors in this case do not outweigh the scales in favour of the convict over the presence of aggravating factors against her. In the case of Suki v R (SCA 10 of 2019) [2020] SCCA 13 (21 August 2020)¹, prof Tibatemwa-Ekirikubinza JA, stated at paragraph 25 of the Judgment;

‘In exercising discretion to arrive at a sentence, the Judge should balance the mitigating factors with the aggravating factors and then consider the cumulative effect thereof. It may be that in the opinion of the Judge, the aggravating factors outweigh the mitigating factors even to the extent that the-would be mitigating factors have little or no effect on the sentence. In such circumstances, the factors cited in mitigation will necessarily recede into the background. It is only if the mitigating factors carry sufficient weight to tip the scale in favour of the accused that a lenient sentence would be given.’

- [9] In the case of Uwaoma v R (SCA CR 05/2023) [2023] (Arising in CR 56/2023)², the Seychelles Court of Appeal upheld a 30-year prison sentence for Patrick Uwaoma, a Nigerian-American who pleaded guilty to importing nearly 5 kilograms of cocaine into the country. Although he claimed he was coerced due to threats against his son, the court found his story unconvincing and highlighted the commercial scale of the operation. On appeal, the sentence was deemed appropriate given the seriousness of the offence, lack of genuine remorse, and potential maximum penalty of life imprisonment under the law. This case underscores the judiciary's commitment to imposing stringent penalties for serious drug-related offences, particularly those involving large quantities and organized trafficking.

¹ <https://seylil.org/akn/sc/judgment/scca/2020/13/eng@2020-08-21>

² <https://seylil.org/akn/sc/judgment/scca/2023/82/eng@2023-12-18>

- [10] In the recent case of Dos Santos v R (SCA CR 16/2024) [2025] SCCA 2³, the Seychelles Court of Appeal upheld a 26-year prison sentence for Brazilian national Maria Dos Santos, who had pleaded guilty to importing 2,453.69 grams of cocaine into Seychelles. In her appeal, Dos Santos argued that the sentence was harsh and excessive given her personal circumstances, including being a 33-year-old single mother of two young children and a first-time offender. The Court, however, emphasized that the Misuse of Drugs Act 2016 prescribes a minimum indicative sentence of 20 years for aggravated Class A drug offences, and that exceptional circumstances would be required to impose a lesser sentence. The Court also noted that a guilty plea in such serious cases does not automatically warrant a significant reduction in sentence, especially when the offence involves the importation of controlled drugs, which has a broad societal impact. Accordingly, the appeal was dismissed, and the original sentence was upheld. This case underscores that while personal circumstances and a guilty plea may be considered, they do not automatically justify a departure from statutory sentencing guidelines. This decision highlights the importance of deterrence and public interest in sentencing, especially in cases that have significant implications for public safety and health.
- [11] In this present case, despite the challenges the convict submits she has faced engaging in criminal activities is not an option. It is acknowledged that financial constraints can sometimes motivate individuals to engage in illicit activities. However, such actions should never be condoned. If such a quantity of drugs had reached the market of Seychelles, it would have had a negative impact on a significant number of vulnerable individuals. If individuals choose to engage in criminal activities, they must be prepared to face the consequences of their actions.
- [12] In view of the above reasoning, all aforementioned facts and in also observing the principle of sentencing (see Lawrence v Republic [1990] SLR 47), I proceed to sentence the convict to a term of 28 years' imprisonment;
- [13] The convict shall not be entitled to remission in view of the aggravating factors in the case;

³ <https://seylil.org/akn/sc/judgment/scca/2025/2/eng@2025-04-22>

[14] Time spent on remand shall be deducted from the sentence;

[15] If unsatisfied with this sentence, the convict may appeal against the same within 30 working days from today.

Signed, dated and delivered at Ile du Port on the 28th May, 2025.

