



**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE**

MAGISTRATE NATASHA GALEA SCIBERRAS B.A., LL.D.

Case Number: 103/2018

Today, 8th August 2018

**The Police
(Inspector Jonathan Cassar)**

vs

**Hampus Isak Mikael Nilsson
(Swedish Passport Number 89292123)**

The Court,

After having seen the charges brought against the accused Hampus Isak Mikael Nilsson, son of Mats Claesson and Anna Nilsson born at Slaka, Sweden on 1st April 1987, residing at Kimsbye Apartments, Flat 1, Triq C. De Brockdorff, Imsida and holder of Swedish Passport bearing number 89292123:

Charged with having on 1st June 2018, and/or previous months on these Islands:

1. Had in his possession (otherwise than in the course of transit through Malta of the territorial waters thereof) the whole or any portion of the plant cannabis, in terms of Section 8(d) of Chapter 101 of the Laws of Malta, **which drug was found under circumstances denoting that it was not intended for his personal use;**
2. Had in his possession the drugs (cocaine) specified in the First Schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, when he was

not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of Part 4 and 6 of the Ordinance, and when he was not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorized by the Internal Control of Dangerous Drugs Regulations (GN 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to him for his personal use, according to a medical prescription as provided in the said regulations, and this in breach of the 1939 Regulations of the Internal Control of Dangerous Drugs (GN 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, **which drug was found under circumstances denoting that it was not intended for his personal use;**

3. Had in his possession the psychotropic and restricted drug (N-ethylpentylone) without a special authorization in writing by the Superintendent of Public Health, in breach of the provisions of the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta and the Drugs (Control) Regulations, Legal Notice 22 of 1985 as amended, **which drug was found under circumstances denoting it was not intended for his personal use.**¹

The Court was also requested to apply Section 533(1) of Chapter 9 of the Laws of Malta as regards the expenses incurred by the Court appointed experts.

Having heard the evidence adduced and having seen the records of the case, including the order of the Attorney General in virtue of subsection two (2) of Section 22 of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) and of subsection (2) of Section 120A of the Medical and Kindred Professions Ordinance (Chapter 31 of the Laws of Malta), for this case to heard by this Court as a Court of Criminal Judicature;

Having heard the accused plead guilty to the charges brought against him, in terms of Section 453(1) of Chapter 9 of the Laws of Malta, which guilty plea he confirmed after the Court warned him of the legal consequences thereof and allowed him sufficient time to reconsider his plea and to retract it;

Having heard final oral submissions by the parties about the punishment to be inflicted.

Considered that:

¹ Following a request by the Prosecution, the third charge was amended by a decree of this Court dated 1st August 2018.

In view of the guilty plea filed by accused in respect of the charges brought against him, the Court cannot but find him guilty of such charges.

For the purpose of the punishment to be inflicted, the Court took into consideration on the one hand, the clean criminal record of accused. On the other hand, it also took into account the serious nature of the offences with which he is being charged and the circumstances of the case, in particular, that accused was at the time of his arrest, at a party – the Earth Garden Festival at Ta' Qali – and that he had a number of substances in his possession, namely, five sachets containing cocaine, weighing in total 3.72 grams, with a purity of circa 25%, four sachets of cannabis buds, weighing 3.24 grams with a purity of circa 15%, together with a nicotine mixture which was found positive for Tetrahydrocannabinol and a small sachet and a plastic bag, both containing N-ethylpentylone, weighing in total 11.45 grams, the latter being a derivative of Cathinone. Accused was also found in possession of a weighing balance with traces of cocaine.

For the purpose of the punishment to be inflicted, the Court is applying the provisions of Section 17(b) and (f) of Chapter 9 of the Laws of Malta, in respect of the three charges proffered against accused.

As regards the monies seized and exhibited by the Prosecution in the records of the case, after having considered the evidence produced, the Court does not deem that there is sufficient evidence to conclude to the degree required by law, that all were derived from drug-related activity or which portion thereof was so derived.

Conclusion

For these reasons, the Court after having seen Parts IV and VI, Sections 8(d), 22(1)(a) and 22(2)(b)(i) of Chapter 101 of the Laws of Malta, Regulation 9 of Subsidiary Legislation 101.02, Sections 17(b) and (f) of Chapter 9 of the Laws of Malta, Sections 40A, 120A(1)(a) and 120A(2)(b)(i) of Chapter 31 of the Laws of Malta and Regulation 3(1) of Legal Notice 22 of 1985, upon his guilty plea, finds accused Hampus Isak Mikael Nilsson guilty of the charges brought against him and condemns him to a term of **twelve (12) months effective imprisonment** – from which term one must deduct the period of time, prior to this judgement, during which he has been kept in preventive custody in connection with the offences of which he is being found guilty by means of this judgement – and **a fine (*multa*) of one thousand and five hundred Euros (€1,500)**.

In terms of Section 533 of Chapter 9 of the Laws of Malta, the Court condemns the person sentenced to the payment of expenses relating to court-appointed experts in these proceedings, namely the expenses incurred in connection with the appointment of Scientist Godwin Sammut, amounting to the sum of three hundred, seventy four Euros and thirty four cents (€374.34) and those incurred in connection with the

appointment of Dr. Martin Bajada, amounting to the sum of four hundred, forty two Euro and fifty cents (€442.50), totaling such expenses to the sum of eight hundred and sixteen Euro and eighty four cents (€816.84).

The Court orders that the drugs and weighing scales exhibited as Document JC 5 are destroyed, once this judgement becomes final and definitive, under the supervision of the Court Registrar, who shall draw up a *proces-verbal* documenting the destruction procedure. The said *proces-verbal* shall be inserted in the records of these proceedings not later than fifteen days from the said destruction.

Furthermore, it orders the release of the mobile phone exhibited as Document JC 4 and the monies exhibited as Document JC 2 in favour of Hampus Isak Mikael Nilsson.

Natasha Galea Sciberras
Magistrate