



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

MAGISTRATE DR ELAINE RIZZO LL.D

Case No.: 20/2023

POLICE

(Police Inspector Alfredo Mangion)

against

MOHAMED SALIM SAAOU EL KADDOURI

Today, 6th May 2024

The Court,

Having seen the charges brought against Mohamed Salim Saaou El Kaddouri, of 36 years, son of Lashen Saaou and Remo El Kaddouri, born in Barcelona, Spain on the 9th June 1986, residing at an unknown address and holder of a Spanish Passport bearing number PAG606148, accused for havng on the 5th January 2023 on these Islands:

1. Imported or caused to be imported or took any steps preparatory to import any dangerous drug (cannabis resin) into Malta against the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta;
2. Produced, sold or otherwise dealt in the resin obtained from the plant cannabis, or any preparation of which such resin formed the base in terms of section 8(b) of Chapter 101 of the Laws of Malta;
3. Had in his possession (otherwise than in the course of transit through Malta of the territorial waters thereof) the resin obtained from the plant cannabis or any other preparation of which such resin formed the base, in terms of section 8(a) of Chapter 101 of the Laws of Malta, which drug was found under circumstances denoting that it was not intended for his personal use;

The Court was requested that, in pronouncing judgement or in any subsequent order confiscate all the exhibits being presented;

The Court was also requested that in pronouncing judgement or in any subsequent order the confiscation in favour of the Government of Malta, the proceeds derived from the offence or any property in which the value of corresponds to the value of that proceeds as well as the confiscation of any property belonging to or in possession of or under the control of any person found guilty in terms of article 22 of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, article 23B of the Criminal Code, Chapter 9 of the Laws of Malta as well as Chapter 621 of the Laws of Malta.

The Court was also requested that in pronouncing judgement or in any subsequent order sentence the accused to the payment, wholly or in part, to the registrar, of the costs incurred in connection with the employment in the proceedings of any expert or referee within such period and in such amount as shall be determined in the judgement or order as per article 533(1) of the Chapter 9 of the Laws of Malta;

Having seen the initial Order issued by the Attorney General in terms of subarticle (2) of article 22 of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) on 7th January 2023 by virtue of which she ordered

that this case is tried by the Criminal Court and the counter-order issued by the same Attorney General on 19th February 2024 in terms of articles 22(2) and 31 of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) ordering that the accused be tried by the Court of Magistrates (Malta) as a Court of Criminal Judicature¹;

Having seen that during the sitting held on 27th February 2024, the accused declared that, for all intents and purposes, he is giving his consent so that he will be tried in front of the Court of Magistrates (Malta) as a Court of Criminal Judicature²;

Having seen that during the sitting held on 22nd April 2024 the accused, Mohamed Salim Saaou El Kaddouri registered a guilty plea to all the charges proffered against him and confirmed the same guilty plea after the Court explained to him in the most solemn manner the legal consequences of his guilty plea and gave him time to reconsider and the opportunity to withdraw the same plea after speaking again to his defence counsel;

Having seen the joint application filed by the accused and the Attorney General on 19th April 2024 wherein the parties declared:

*“That the applicants, while declaring that they have reached an agreement in terms of Article 392A(5) of the Criminal Code, humbly request this Honourable Court that in the event that **Mohamed Salim Saaou El Kaddouri**, holder of a Spanish passport number PAG606148, admits to all the charges proffered against him, the punishment to be awarded by this same Honourable Court will consist of a **term of effective imprisonment of three (3) years together with a fine of six thousand euro (€6,000)** together with any other sanctions, confiscations, expenses and consequences that are mandatorily prescribed by law upon conviction in terms of Chapters 9 and 101 of the Laws of Malta.”*

After having seen all the documentary evidence and the full acts of proceedings;

¹ Fol. 13 and 271 of the acts of proceedings.

² Fol. 272 of the acts of proceedings.

After having heard all the testimonies and submissions made by the parties;

Considers:

Whereas by virtue of the accused's guilty plea the charges brought against the accused have been proven beyond reasonable doubt in terms of law and the Court will proceed to find the accused guilty of the same charges;

Whereas, with regards to the punishment that should be imposed on the accused, both the prosecution and the defence counsel declared that they have nothing further to add to the contents of the joint application filed on 19th April 2024;

Whereas, with regards to the appropriate punishment that should be awarded, this Court took into consideration the following factors:

- The local and foreign case law regarding the plea in mitigation of punishment when the accused person files an early plea of guilt and in particular “Ir-Repubblika ta’ Malta vs. Nicholas Azzopardi” [24.2.1997] (Criminal Court); “Ir-Repubblika ta’ Malta vs. Mario Camilleri” [5.7.2002] (Court of Criminal Appeal); “Il-Pulizija vs. Emmanuel Testa” [17.7.2002] (Court of Criminal Appeal) and others) as well as BLACKSTONE’S CRIMINAL PRACTICE. Now in this case the guilty plea was registered at a very advanced stage in the proceedings and this after the prosecution rested their case and the defence were given a number of sitting to bring forward their evidence if any;
- Blackstone’s declaration, which has been adopted by various Maltese case law - “*Where an offender has been caught red handed and a guilty plea is inevitable, any discount may be reduced or lost (Morris [1998] 10 Cr. App. R. (S) 216; Landy [1995] 16 Cr. App. R. (S) 908)*”
- The quality, quantity and purity of the dangerous drugs involved in this case namely cannabis resin in the amount of 399.5 grams with 30% purity.
- The consequences of the charges proffered against the accused particularly the consequences on the Maltese society if the said drugs were distributed in the local illegal market had they not been intercepted by customs and the police;

- Having seen other cases decided by this Court where the facts of the case were somewhat similar - though obviously never identical - for the purpose of maintaining a desirable degree of uniformity in punishment;

Whereas, for the above reasons, the Court is satisfied that the sanction and punishment agreed to by the Prosecution and the Defence can be legitimately imposed upon the conviction of Mohamed Salim Saaou El Kaddouri of the offences to which he has pleaded guilty. Consequently the Court agrees with the imposition of such sanction and punishment and in terms of article 392A of the Criminal Code will be upholding the joint request filed by the Attorney General and the accused on 19th April 2024.

Decide:

Hence, for these reasons, **this Court, after having seen articles 8(a), 8(b), 22(1)(a), 22(1B), 22(2)(b)(i) and 22(3A) of the Dangerous Drugs Ordinance, Cap. 101 of the Laws of Malta, articles 17(h), 23 and 533 of the Criminal Code, upon his admission, is finding the accused, Mohamed Salim Saaou El Kaddouri, guilty of all the charges brought against him.**

Consequently, this Court is upholding the joint application filed by the Attorney General and Mohamed Salim Saaou El Kaddouri on 19th April 2024, and is condemning the same Mohamed Salim Saaou El Kaddouri to the requested period of three (3) years effective imprisonment and to a fine *multa* of six thousand euro (€6,000). If this fine is not paid within twelve months from today, the Court orders that such fine is automatically converted into a further period of imprisonment according to article 11 of the Criminal Code;

Additionally, in terms of article 533 of Chapter 9 of the Laws of Malta, the Court is ordering Mohamed Salim Saaou El Kaddouri to pay the Registrar of this Court the sum of ten thousand, four hundred twenty one Euros and fifty Euro cents (€10,421.50)³ being the expenses incurred in the employment of experts in relation to the charges for which he was found guilty.

Furthermore, the Court is ordering that all objects related to the aforementioned offences (of which El Kaddouri has been found guilty) together with all monies and other moveable and immovable property

³ SOCO Emerson Vella €94.40; Pharmacist Gilbert Mercieca €1,298.00; SOCO Gabriella Vella €191.75; SOCO PS844 Carl Micallef €103.79; Dr. Marisa Cassar €1168.20; Keith Cutajar €7,565.36

pertaining to said person convicted be forfeited in favour of the Government of Malta;

Finally, the Court is ordering the destruction of the drugs, once this judgement becomes final and definitive, under the supervision of the Court Registrar, who shall draw up a process-verbal documenting the destruction procedure. The said proces-verbal shall be inserted in the records of these proceedings by not later than fifteen days from said destruction.

Magistrate Dr. Elaine Rizzo BA, LLD

Christine Farrugia
Deputy Registrar