



CRIMINAL COURT

**THE HON. CHIEF JUSTICE
VINCENT DE GAETANO**

Sitting of the 6 th October, 2005

Number 1575/2005

The Police

v.

Serge Geryl

The Court:

Having seen the application filed by the Attorney General on the 5 October 2005 in terms of Section 575(4A) of the Criminal Code, requesting the re-arrest of Serge Geryl;

Having seen the preliminary decree of this Court of the 5 October 2005; having seen the record of the Court of Committal and in particular the decree of the 3 October 2005 whereby that Court had granted bail to the said Serge Geryl under certain conditions;

Having heard Counsel for the Attorney General (Dr. Donatella Frendo-Dimech) and Counsel for respondent

Serge Geryl (Dr. José Herrera) at to-day's afternoon sitting;

Considers:

In this case the Attorney General is requesting the revocation of the bail decree mainly because of the possibility of respondent absconding or leaving these Islands pending the hearing of his case. Respondent is wanted by the Belgian Authorities so that he will serve or start serving a ten year prison sentence passed by the Court of Appeal of Ghent on the 26 June 2001. The first thing to be noted, therefore, in this case is that no argument for the granting of bail can be based on any presumption of innocence – respondent is not being requested so that he will be tried – he has already been tried and convicted by an appellate court and a further appeal to the Court of Cassation was rejected on the 13 November 2001. From documents submitted during to-day's sitting it would also appear that a petition for a Royal Reprieve was rejected on the 18 April 2002.

Respondent, although he has been in Malta for close to four years, working under irregular circumstances, does not appear to have any strong community ties, and this Court fully agrees with the Attorney General that the danger of absconding and of leaving the islands surreptitiously is a real one. Nor is it expected that extradition proceedings in this case, considering the fact that respondent's return to Belgium is being sought pursuant to a European Arrest Warrant, should take any length of time – the extradition hearing is in fact scheduled for the 10th instant at 11.30 am before the Court of Committal.

In the circumstances this Court is of the view that the Court of Committal was not justified in releasing respondent on bail – even if the conditions of the said bail amount in reality a form of “house arrest”. The European Arrest Warrant should have been allowed in this case to take its natural course -- albeit temporarily until final determination of the request made by the Belgian

Informal Copy of Judgement

Authorities by the Court of Committal -- that is that respondent, should be held under arrest in pursuance of that same warrant and of the certificate issued by the Attorney General on the 29 September 2005 (fol. 10 of the record).

For these reasons the Court allows the request made by the Attorney General, revokes the decree of the Court of Committal of the 3 October 2005, and orders the re-arrest and continued detention of respondent Serge Geryl according to law.

< Final Judgement >

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