

Public Prosecutor v Aw Kim Lye
[2001] SGHC 305

Case Number : CC 51/2001
Decision Date : 11 October 2001
Tribunal/Court : High Court
Coram : Choo Han Teck JC
Counsel Name(s) : Chan Wang Ho and Glenn Seah Kim Ming [Attorney-General's Chambers] for the prosecution; Peter Low [Peter Low Tang & Belinda Ang] (assigned) and Michael S Chia [infinitus Law Corporation] (assigned) for the accused
Parties : Public Prosecutor — Aw Kim Lye

Judgment

GROUND OF DECISION

1. The accused is an unemployed man, 41 years of age. He was arrested on 21 January 2001 and found to be in possession of three similarly sized plastic packets and one smaller packet containing diamorphine weighing a total of 80.56g nett. He was charged for trafficking in diamorphine under s 5(1)(a) read with s 5(2) of the Misuse of Drugs Act, Ch 185.

2. The prosecution led evidence to show that officers from the Central Narcotics Bureau ("CNB") began to track the accused from 8.55am of 21 January 2001. The officers formed teams and proceeded in different vehicles. W/Sgt Rahizah and S/Sgt Goh were in a car that first spotted the accused. He was in his white Suzuki car numbered SBN 2543 P and was at the traffic junction of Sims Avenue and Jalan Eunos, heading towards the direction of Bedok. Cpl Mark Lim and S/Sgt Subramaniam were in another car and they too spotted the accused when his car pulled up at a petrol station along East Coast Road about 9.10am. Cpl Peter Loong and Cpl Hambaly were on a motorcycle and they spotted the accused's car at Burnfoot Terrace, behind Siglap Centre. This was about 9.35am. Cpl Loong and the other officers were instructed to arrest the accused at that point. However, as the officers advanced towards the Suzuki it sped off and that resulted in a chase by the CNB officers through Burnfoot Terrace, Lothian Terrace, East Coast Road, Frankel Avenue, Changi Road, Lorong Mydin, Sims Avenue East, New Upper Changi Road and Bedok North Avenue 1. Finally the Suzuki turned into Bedok North Street 3 which was a one-way loop road.

3. S/Sgt Goh and W/Sgt Rahizah used their car to blockade the exit of that road. Finding himself trapped, the accused tried to reverse his car but smashed it into the car driven by Cpl Mark Lim. He had also damaged some cars belonging to the public in his attempt to evade the officers. With his route blocked at both ends the accused leapt out of his car and attempted to escape on foot, but he was quickly brought down by Cpl Hambaly and some of the other officers a short distance away from his car. He attempted to resist arrest but who was soon overpowered and arrested.

4. The Suzuki was so damaged that it could not be driven and had to be towed away. Before that was done, ASP Ong Pang Thong arrived with his team of CNB officers to take over the custody of the accused. ASP Ong spoke to the accused in Hokkien and the following conversation was recorded:

"Q1: Anything to surrender in your car SBN 2543 P?"

A: Nothing

Q2: I pointed to the red plastic bag [at] the front passenger seat and ask what

is inside the bag.

A: 3 packets of Peh Hoon.

Q3: The 3 packets of Peh Hoon belong to who?

A: They belong to ms

Q4: Any other Peh Hoon in the car?

A: No more other than the 3 packets of Peh Hoon."

The accused signed this recorded statement at the scene of arrest and did not challenge it in court. The accused and his car were taken to the CNB headquarters at 11.31am

5. Another search was conducted on the Suzuki in the presence of the accused. A plastic bag containing yellow granular substance was found on the floormat of the drivers seat. ASP Ong questioned the accused and recorded the following question and answer:

"Q: What is inside the plastic bag?

A: Peh Hoon

Q: The Peh Hoon belongs to who?

A: The Peh Hoon belongs to me"

This short statement was signed by the accused and again it was not challenged in court.

6. The prosecution also produced the accuseds cautioned statement in which he stated: "I have nothing to say". The statement was recorded at 2pm of 23 January 2001. An investigation statement in three parts, recorded on 30 January 2001 at 10am and 2.55pm and 31 January 2001 at 10.45am were also produced in evidence. These statements were admitted in evidence without challenge. The accused confessed to collecting and transporting the diamorphine in question, and also to selling diamorphine for profit.

7. No submission was made on his behalf at the close of the prosecution case. On the evidence adduced, I called on the defence and the accused elected to remain silent. He also did not call any witness on his behalf. He also declined to instruct his counsel to make any final submission.

8. After reviewing the evidence of the prosecution I was satisfied that the charge against the accused had been proved beyond reasonable doubt. I, therefore, convicted him and sentenced him to suffer death.

Sgd:

Choo Han Teck
Judicial Commissioner

