THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

NOT REPORTABLE
Case number : 478/07

In the matter between :

PIERRE ROY BRIDGES **APPELLANT**

and

THE STATE **RESPONDENT**

CORAM : **BRAND, COMBRINCK *et* CACHALIA JJA**

HEARD : **12 SEPTEMBER 2007**

DELIVERED : **12 SEPTEMBER 2007**

Neutral citation: This judgment may be referred to as *Bridges v The State* [2007] SCA 98 (RSA)

EX TEMPORE JUDGMENT

BRAND JA:

[1] This is a bail appeal. The appellant is one of four accused persons who are charged in the Regional Court of Roodepoort with the manufacturing of and the dealing in a dangerous dependence-producing substance, namely, Methamphetamine, colloquially known as Tik-tik or Crystal Meths. All four accused applied for bail in the court of first instance. Two were successful while the appellant and one other were not. The two unsuccessful ones appealed to the Johannesburg High Court where Pandya AJ dismissed the appeal of the appellant but granted bail to his co-accused.

[2] The magistrate considered the application for bail on the basis that the appellant and his co-accused were charged with an offence referred to in schedule 5 of the Criminal Procedure Act 51 of 1977 and that, in consequence, the matter was governed by s 60(11)(b) of the Act. In terms of this section, an applicant for bail is burdened to satisfy the court that the interests of justice permit his release.

[3] The first contention raised on appeal, both in the court *a quo* and in this court, was that the magistrate had erred in accepting that the appellant was charged with an offence referred to in schedule 5 of the CPA. In support of this contention, reference was made to reported judgments dealing with the different ways in which the State may establish that the accused is charged with a schedule 5 offence. Relying on these judgments the conclusion contended for was that, in the present matter, the State had failed to establish the jurisdictional fact required for the operation of s 11(b) in any of these ways. I do not believe, however, that these decided cases are of any relevance at all. At the outset of the proceedings in the court of first instance, the prosecutor informed the magistrate that:

'The charge against the accused is manufacturing and dealing of drugs. It is a schedule 5 offence . . . and the defence will start.'

Upon enquiry by the magistrate, the appellant's attorney then expressly confirmed that this is so.

[4] After this formal admission, and particularly in the light of s 60(2)(b) of the Act, both the State and the court were entitled to accept that there was no longer any *lis* between the parties about the applicability of schedule 5. The State thus no longer had to establish anything. The appellant's only answer to this formal admission on his behalf was an attempt to rely on the principle that a party is not bound to a concession based on a mistake of law. I find the reliance on this principle wholly inappropriate simply because there is no reason to believe that the concession by the appellant's attorney was indeed informed by any mistake of law. The magistrate was therefore quite right in approaching the application on the basis that she did.

[5] As to the merits, the State presented the evidence of Captain de Bruin. He described how, in a garage on premises controlled by the appellant, the police found a complete laboratory. The premises are not used for any other purpose than the production of drugs. In the laboratory they found fourteen to fifteen litres of Methamphetamine oil which would be sufficient to manufacture about four to six kilograms of Crystal Meth, with a street value of R300 per gram. When the police arrived on the scene they found a small amount of finished product, as well as a manufacturing process in progress. They also found equipment in a condition which indicated that the activities, of what Captain de Bruin perceived to be a syndicate, had been going on for quite some time. None of these facts were earnestly disputed by the appellant, save that he denied the intention to use the Methamphetamine for the production of dangerous dependence-producing drugs. At face value his explaination as to what he was manufacturing is, to say the least, most peculiar indeed.

[6] From the appellant's own evidence, it appears that he has no assets of any value in his own name; that he is not married and has no children; that he conducts his business outside the borders of this country in Zimbabwe and the Congo, and that he is himself addicted to drugs. Moreover, he at least *prima facie* told an untruth about where he would get his bail money from.

[7] Against this factual background the magistrate's reasons for refusing bail appear to have been essentially threefold: Firstly, that the appellant is facing very serious charges which carry severe penalties. Secondly, that the State presented a very strong case against the appellant; and thirdly, that since the appellant has both the know-how and the means to continue manufacturing these dangerous drugs, there is the real danger that he may continue the illegal activities of the syndicate and that his release would therefore create a danger to society.

[8] Since I am not satisfied that any of these considerations can be described as a misdirection, it is not open to us to interfere with the magistrate's decision on appeal. It follows that in my view the appeal stands to be dismissed.

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F D J BRAND
JUDGE OF APPEAL

Concur:

COMBRINCK JA
CACHALIA JA