

Importation of Class A drug Cocaine, and Class B drug cannabis by postal service and through the Airport.

[2023]GRC037

**ROYAL COURT
FULL COURT**

1st February, 2023

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff
and Jurats: Stephen Murray Jones OBE, Claire Helen Le Pelley,
Terry John Ferbrache, Jonathan Grenfell Hooley Steven John Morris, Joanne Marie
Wyatt, Marilyn Jasmine King, Paul Martin Burnard, James Robert Toynton.**

THE LAW OFFICERS OF THE CROWN

- v -

SAMER HANCHA

**Advocate J D McVeigh appeared for the Crown
Advocate P Lockwood appeared for the Defendant**

LIEUTENANT BAILIFF:

Background

You appear here today for sentence on an Indictment containing 4 counts:

- Counts 1 & 3 refer to the unlawful importation of the Class A controlled drug, cocaine.
- Counts 2 & 4 refer to a like offence concerning the Class B controlled drug, cannabis.

The maximum penalties are life on Counts 1 & 3, and 21 years on Counts 2 & 4.

Counts 1 & 2 were detected at the Airport, where you tried to import 0.94 grams of cocaine and 19.37 grams of cannabis. Counts 3 & 4 refer to a postal importation of 0.34 grams of cocaine and 3.96 grams of cannabis.

You are a non-local person, born in Sicily, aged 21, and working as a sous chef at a local restaurant. You have no previous convictions. You have been on conditional bail throughout, which you have kept, and timely guilty pleas were entered.

The relevant Guernsey street values are £94 to £141 for the cocaine on Count 1 and £968.50 to £1,355.90 for the cannabis on Count 2, £34 to £51 for the postal importation Count 3, and £198 to £277.20 for the cannabis Count 4.

When apprehended at the Airport, you stated that you had bought the cocaine for two colleagues at their request. They would pay you back. You concealed the drugs, as you knew they were illegal.

In relation to the earlier postal importation, messages in Italian on your phone and images of them, showed what was involved. You dealt, we have heard with a contact named Nico arranging the address and other details. It was also shown you were disguising the purchase, you were discussing the purchase and importation of controlled drugs and your buying them in London. You admitted you had arranged the postal importation at an interview you requested. You did not withhold any details.

Sentencing Considerations

Looking at the guidelines which bind this Court the band of sentencing as a starting point for 1 to 20 grams of cocaine, being imported or supplying is generally 7 to 9 years'. For cannabis up to 2 kilograms the band of sentences as a starting point is 3 to 6 years'. We are firstly to consider an appropriate starting point on the facts of the case, noting the two different types of drug but also the amounts. We also regard abuse of the postal system as an aggravating factor. We note your intention to supply the cocaine, the subject of Count 1. In noting these facts, we consider that the cocaine is a very small amount and for only a couple of days use and we can treat it accordingly.

We consider the easiest way to deal with your offending is to aggregate, add up the four offences and select a combined starting point, which is intended to reflect all the circumstances of the case. When we have done the starting point, we then look at mitigation in your favour. The end total would be the same if we made the sentences on the offences, concurrent or consecutive. Our total starting point here, taking account of the facts is 5 years'.

Mitigation

Your previous good character is much in your favour and has to be given in effect to. Also, your guilty pleas, where we are encouraged to give a discount, even where as here, you pleaded in the face of good evidence. We have read the Probation Report and the other documents, your note and the references, good references. We also take note of the mitigation put forward by your Advocate. Also, your good work ethic. These factors combine, their added together to produce an effective amount of mitigation but we still have to consider the misuse of the postal system and your intention to supply the cocaine on Count 1. We regard you on the facts as not a large scale dealer. This enables us to afford you, a substantial discount based solidly on the particular facts of this case and not of general application. Adding up the points in your favour, we are prepared to give you a $\frac{3}{4}$ discount, other worse offenders will certainly not be so fortunate, this is very much a case and facts specific decision.

Sentence

When everything is said, you abused the hospitality of this island by committing drug importation offences. We need not repeat all the facts. The sentence passed today could have been higher. You have behaved very stupidly, indeed. When you come to another jurisdiction you obey the laws in force.

Taking account of everything that we have set, which I have read out on behalf of the Court, the sentences on each of these counts, 1 & 3 and 2 & 4 is 15 months' imprisonment on each, concurrent.

Total: 15 months', (1 year and 3 months) from today.

Forfeiture and Destruction Orders, as requested.

Deportation

This Court does not have the power to order deportation. We make a recommendation, if appropriate, and his Excellency the Lieutenant Governor of Guernsey makes the decision. We note the helpful report from the Immigration Service and your Advocates submissions here. We are bound, since the Court of Appeal case of Odette to balance Human Rights considerations with the circumstances of the

offending. In this case, we note there is no record of you having a Work Permit, which is not your fault, and which causes us to question how you were working here. You came here in April 2022, having been working in London since 2020. Your first language is Italian. You have no family connections in Guernsey and intend to return to London. So, when we consider your very slight links with Guernsey. Your European Convention Rights to family life are considerably outweighed by these four offences, two of which involve Class A drugs. In fact, there is nothing that appears to be of impact in relation to the European Convention on Human Rights. Good public order and the public interest show that a recommendation for your deportation is proportionate and appropriate. We make the recommendation, though it is, as we said for the Lieutenant Governor to decide. We have conducted the balancing exercise required and the conclusions is, in our view, entirely clear and I repeat we have noted your Advocate`s helpful submissions here.

- 15 months' in total from today
- Recommendation for deportation
- Destruction & Forfeiture

So if that is all understood, you must go down with the Officer when that is finished (translator).

**J R Finch, O.B.E.
Lieutenant Bailiff**

1st February 2023