

THE DIRECTOR OF PUBLIC PROSECUTIONS v LUCKMUN V

2026 SCJ 355

THE SUPREME COURT OF MAURITIUS

SCR No 128211 (5A/123/26)

In the matter of:

The Director of Public Prosecutions

Applicant

v/s

Luckmun Vicky

Respondent

In the presence of

- 1. The District Magistrate of District Court of Moka**
- 2. Financial Crimes Commission**

Co-Respondents

JUDGMENT

This is an application under section 4A of the Bail Act 1999 to set aside a bail ruling delivered by co-respondent no.1 dated 21st April 2026 in which co-respondent no.1 granted conditional bail to the respondent.

The salient facts are that in August 2025 co-respondent no.2 arrested one Steven Moothoocurpen in relation to a case of money laundering. During the course of enquiry by co-respondent no.2, it was revealed that in the year 2024 the said Moothoocurpen had planned to import synthetic cannabinoid from China and Hong Kong to Mauritius through two freight companies. According to the enquiring officer, examination of the relevant customs documents as well as the communications on Mr Moothoocurpen's mobile telephone showed that it was the respondent who collected the consignments of Mr Moothoocurpen on four different occasions.

The respondent is an inspector of police and is posted at the Anti Drugs and Smuggling Unit (“ADSU”). In order to retrieve the drugs which were hidden inside the consignments, the respondent is supposed to have used a search warrant from ADSU to obtain release of the consignments from customs and the courier DHL. After the consignments were released, the respondent recovered the drugs. The respondent was arrested on 24th March 2026 and provisionally charged with conspiracy to collect an imported parcel suspected to contain dangerous drugs from customs/DHL.

A bail motion was heard on 15th April 2026. The prosecution objected to the release of the respondent on three grounds, namely the risk of re-offending, the risk of interfering with witnesses, and the risk of tampering with evidence.

In a ruling delivered on 21st April 2026 co-respondent no.1 found that *“the risks under the grounds of objection can be reduced by the imposition of conditions such that they become negligible.”* The applicant is now seeking to set aside the above ruling as being *“unsound, erroneous and inadequate”* inasmuch as the co-respondent no.1 misdirected herself on the issue of the risk of interference with witnesses and failed to assess the said risk in a proper manner.

The main point in the submissions of learned counsel for the applicant is that co-respondent no.1 placed emphasis on the absence of any evidence to show that the respondent had already contacted or influenced any witness whereas the proper issue was whether there was reasonable ground for believing that the respondent would interfere with witnesses or otherwise would impede the investigation, vide section 4(1)(a) of the Bail Act and **Ravatomanga M v. The District Magistrate of the Bail and Remand Court & Ors** [\[2026 SCJ 218\]](#). This risk is assessed in an objective manner by consideration of all the circumstances of the case. On the other hand, learned senior counsel for the respondent submitted that co-respondent no.1 has made a judicial assessment of the evidence and correctly applied the principles enunciated in **Deelchand v. Director of Public Prosecutions** [\[2005 SCJ 215\]](#) and that a bail review is not a second opportunity for the unsuccessful party to argue the merits of the original bail application.

Now, a close reading of the ruling of co-respondent no.1 reveals that there is a flaw in the reasoning process. In particular at paragraph 28 of the ruling, co-respondent no.1 states as follows:

“28. True it is that the aforementioned evidence does satisfy the legal test for reasonable grounds for suspicion which a police officer must satisfy before they can stop and detain

an individual, however, I am of the opinion that they do not amount to concrete and direct evidence that will justify the continued detention of the applicant in the present matter.”

Co-respondent no.1 then proceeded to assess the risk of interference. The flaw is that, having concluded in paragraph 28 that the evidence does not justify the continued detention of the respondent, the assessment of the risk of interference becomes a pointless exercise. What was incumbent on co-respondent no.1 to do was to refrain from making any hasty conclusions and to consider all the relevant factors as to the risk of interference. One factor is that some of the witnesses are colleagues of the respondent and the risk of interference with them on account of this relationship is real. Another factor which is noteworthy is that the respondent is aware of the status of the enquiry and which witnesses have already been interviewed by co-respondent no.2. Unfortunately, co-respondent no.1 did not consider these factors and rested her assessment of the risks exclusively on the absence of any evidence of actual interference.

In the circumstances, since the ruling of co-respondent no. 1 is based on a material misdirection, it is therefore quashed.

V. Kwok Yin Siong Yen
Judge

D. C. N. D. Mootoo
Judge

19 August 2026

Judgment delivered by Honourable D. C. N. D. Mootoo, Judge

For the Applicant:

Principal State Attorney

Mrs. N. Senevrayar-Cunden, Assistant DPP

For the Respondent:

Mrs. A. Kasory-Bandhu, Attorney at Law

Mr. R.Valayden, SC

**together with Mr. I.S. Bandhu and Mr. S. Hussenbocus,
both of Counsel**

For the Co-Respondent No. 2:

Mrs. N. Seetaram, Attorney at Law

Mr. M. Arzamkhan and Ms. S. Jalim, both of Counsel