

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IN THE DISTRICT REGISTRY OF SHINYANGA)
AT SHINYANGA**

CRIMINAL SESSION NO. 06 OF 2021

REPUBLIC

VERSUS

MOHAMED SEIF @ MOHAMED

JUDGMENT

29th November & 14th December, 2022

MASSAM, J.

The accused person Mohamed Seif @ Mohamed stands charged with two offences to namely; **trafficking in narcotic drugs contrary to section 15(1) (b) (2) of the Drugs Control and Enforcement Act No. 5 of 2015** being the first count and **unlawful possession of narcotic drugs Contrary to section 15(I) (a) (b) of the Drugs Control and Enforcement Act No. 5 of 2015**, being the second count.

It is alleged that on 16th April 2016, at Kahama bus stand, within Kahama District, in Shinyanga Region accused Person was found in possession and trafficking in narcotic drug namely heroine from Dar es salaam to Kahama through Leina Bus.

When the information of the charge was read to the accused person during Plea taking and Preliminary hearing, he pleaded not guilty to the charges. Further, on 18th November, 2022 when the case came up for trial, the two charges were reminded to the accused, again he pleaded not guilty thereto in respect of both counts.

At the trial, Ms. Edith Tuka, Ms. Caroline, Mushi and Jukael Jairo learned State Attorneys represented the Republic, while Mr. Simba Ngwilimi, with assistance of Gervas Genea learned Advocates, represented the accused person.

In order to prove the case against the accused person, the prosecution side called eight (8) witnesses to testify, namely, Rwige Ogunya, (PW1), Madata Adam Shaban, (PW2), F. 1689 D/SGT Steven (PW3), E. 8295 D/SGT Wilson (PW4), ACP George Simba Kyando (PW5), SSP George Wilbert Bagyemu (PW6), F.2298 A/Inspector Mariam Makala (PW7) and W.P 5557 CPL Neema (PW8). They also tendered a total of six

(6) exhibits, which were admitted, thus: Chemist Analyst Report (Exhibit P1), narcotic drugs namely Heroine 460 grams (exhibit P2), Certificate of seizure dated 16/4/2016 (exhibit P3), Caution statement of the accused person (exhibit P4), Declaration statement of Maugo Musyangi (exhibit 5) and Report Book (RB) (exhibit 6). On the other hand, accused person defended himself as DW1 and tendered a total of two (2) exhibits namely Declaration statement of 5th prosecution witness ACP George Simba Kyando (exhibit D1) and ticket of the accused person from Burundi to Kobero, ticket from Kabanga to Kahama and passport as (exhibit D2).

The prosecution case started by **PW1:** Rwige Ogunya a government Chemist Officer who from 2007 to 2017 was stationed at Mwanza. He testified that, on 3/5/2017, he was at his office. While there, he received an exhibit which suspected to be heroine from A/Inspector Maugo Msyangi from Kahama. He said that the said exhibit had with its cover was brought to him for investigate to prove if it is narcotic drug which he gave it **lab.No.620/2017.**

He went on telling the court that he weighed it and finds out to be 470.07, grams, after that when he was weighing the drugs, he separated the drugs and its cover. He weighed drugs alone then weighed its cover

the result was that drugs had 460 grams and the cover had 10 grams. He said he saw the drugs had had brown in colour and another one was powder and crystals all were brown colour. His investigation came out that the said exhibit was heroine (narcotic drugs).

PW1 continued to narrate that he prepared investigation report, on the said exhibit, he said he filled by writing the lab No, his signature and office seal then he handled the exhibit and Investigation report to A/Inspector Maugo Msyangi. He tendered the said exhibit which the court admitted as exhibit P1(lab no.620/2017) PW1 also tendered the heroine (narcotic drugs and its specifications) the court admitted as exhibit P "2"

When cross examined, PW1 responded that, he received the said exhibit on 3/5/2017 on a working day and working hours and he started investigation on the same day until on 4/5/2017 he then prepared a report he said he did not remember the form which he received from A/Inspector Maugo Msyangi but after he received that exhibit, he lab it, weighed it first, later he put out its of cover. there after he investigated the sample by mix with acid, and gave him yellow colour, later he mixed it with another different acid, and came up with green colour. He said he found out that it was heroine, the said heroine can be in whitish or light brown.

