

**BETWEEN:** Public Prosecutor

**AND:** Timothy Salro  
Defendant

*Date:* 19 June 2020  
*By:* Justice G.A. Andrée Wiltens  
*Counsel:* Ms B. Ngwele for Public Prosecutor  
Ms K. Karu for the Defendant

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**SENTENCE**

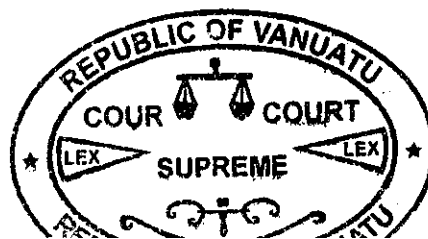
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A. Introduction

1. Mr Salro pleaded guilty to unlawful sexual intercourse with a young person under the age of 15 years but over the age of 13 years. The maximum penalty for such offending is 15 years imprisonment

B. Facts

2. Between April and November 2019, BK, was 14 years old.
3. BK knew Mr Salro as he was a cousin of a friend of hers, and he occasionally drove the two of them to/from school. BK commenced to live with her friend's family in April 2019.
4. One night in April 2019, Mr Salro went into BK's bedroom and demanded she take off her clothes. She refused. Mr Salro then took off all her clothes for her, and his own. He proceeded to lie on top of her and have sexual intercourse with BK. There were blood stains on the sheets the next morning, and BK was in pain; she remained in bed most of that next day.
5. Mr Salro continued to have sexual intercourse with BK over the next 5 months, until it was discovered that she was pregnant. BK gave birth in January 2020.



6. Mr Salro told the police he remembered going into BK's room to have sex with her, but someone else had entered and made it impossible. He also said he had asked BK for sex as he wanted her to have his child, but intercourse proven impossible as BK's vagina was very small and he could not penetrate her; and she then pushed him away.

C. Aggravating Factors

7. There are a number of aggravating factors that need to be taken into account in setting the sentence start point, as follows:
- The age differential between them – she was 14 years old, and he was 27 years old; with a resulting power imbalance making it virtually impossible for her to resist;
  - The offending occurred in BK's bedroom – where she should have been safe;
  - The offending was perpetrated by a frequent member of the household – this was a breach of trust, but not a gross breach;
  - The intercourse was unprotected – exposing BK to sexually transmitted disease and resulting in pregnancy; and
  - The offending was repeated over a period of some 5 months.

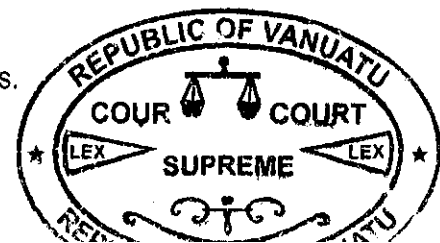
D. Sentence Start Point

8. The sentence start point I adopt for this offending is 6 years imprisonment.

E. Personal Factors

9. There are a number of personal factors that must also be taken into account prior to arriving at the end sentence. These are as follows:
- Mr Salro is now 28 years old; separated from de facto partner and their one-year old baby;
  - He has worked for past 6 years for Wire Industry Vanuatu;
  - He has participated in a custom reconciliation ceremony – to the value of VT 65k. However, the majority of that comprised of kava - what use is kava to a 14 year old young mother? I am unconvinced that the ceremony addressed the complainant's needs adequately;
  - Mr Salro has no previous convictions;
  - He is reported to be remorseful and regretful;
  - He stated that he was under influence of alcohol – but that cannot have been the case on every occasion! He also said that BK had consented. However, BK was of course unable, in law, to consent because of her young age.

10. For Mr Salro's personal factors I reduce the sentence start point by 6 months.



F. Plea

11. I accept Mr Salro pleaded guilty at the earliest available opportunity. The effect of that is that he spared the complainant from having to give evidence. It all also demonstrated remorse and was an acknowledgement of wrong-doing. Therefore, the discount available for his prompt plea is set at 33%.
12. Mr Salro has been remanded in custody from 14 January 2020 through until 4 February 2020 – a period of 3 weeks. The sentence therefore needs to be back-dated to take that into account and to preserve his parole rights.

G. End Sentence:

13. The end sentence I impose is one of 3 years 8 months imprisonment. That is to commence on 28 May 2020.

H. Suspension:

14. This offending is too serious; and the type of offending also dictates that a suspension of any or all of the sentence is simply not appropriate: see *PP v Ali* [2000] VUCA and *Gideon v PP* [2002] VUCA 7

I. Other

15. Mr Salro has 14 days to appeal this sentence if he disagrees with it.
16. All details relating to BK's identity are permanently suppressed.

Dated at Port Vila this 19th day of June 2020  
BY THE COURT

  
Justice G.A. Andree Wiltens

