

**COMMONWEALTH OF THE BAHAMAS**  
**In The Supreme Court**  
**Criminal Division**  
**No. CRI/BAL/00038/2004**

**BETWEEN**

**JERMAINE MISSICK**  
**A.K.A: RATS**

**AND**

**THE ATTORNEY GENERAL**

Before: Her Ladyship, The Honourable  
Madam Justice Guillimina Archer-Minns

Appearances: Mr. Jermaine Missick  
Mr. Geoffrey Farquharson for Applicant  
Mr. Kevin Farrington for the Respondent

Date of Hearing: 13<sup>th</sup> April 2016

**RULING-BAIL**

## **Archer-Minns J**

An application for bail was made for and on behalf of the named Defendant, Jermaine Missick a.k.a: Rats charged with the offence of Murder, on the 13<sup>th</sup> April 2016. In support of the application Counsel for the Applicant submitted inter alia,

- (i) the Applicant has no previous convictions although there is a pending matter before the Magistrate Court with respect to the offence of Assault with a Deadly Weapon for which he was granted bail.
- (ii) the Applicant has been in custody since 3<sup>rd</sup> February 2014. The trial date is set for April 2017 and takes the Applicant outside the three (3) year period stipulated in the Bail Act. The matter was brought up on an earlier date but did not proceed to trial.
- (iii) Witness statements given, favour the Applicant. The Crown has done nothing to contradict the information which was provided since August 2014 and again in January 2016.
- (iv) Applicant is not a flight risk and is not likely to interfere with witnesses.
- (v) Applicant is a fit and proper person for admission to bail.

The Crown objected to the application on the basis that:-

- (i) the Applicant was denied bail in September 2015 – the strength of the argument has not changed since being presented before Jones J. Other than the efflux of time there is nothing to cause the court to revisit the matter.
- (ii) the deceased after he was shot gave the police a statement implicating the Defendant, after giving the statement he died.
- (iii) the statement of the deceased corroborated that of Tyson Cargill. The Crown was never approached by Tyson Cargill with respect to recanting his statement. On the face of the evidence it remains credible and cogent which will be tested under cross-examination.
- (iv) there has been no unreasonable delay nor has there been any change in circumstances for the court to revisit the decision of Jones J.

The court has reviewed and considered the submissions of the Applicant and Respondent together with the relevant provisions of the Bail Act Chapter 103 Statute Law of The Bahamas. (hereafter referred to as the Act).

Section 4 of The Act reads in part:-

“Notwithstanding any other provisions of this Act or any other law, any person charged with an offence mentioned in Part C of the First

Schedule, shall not be granted bail unless the Supreme Court or the Court of Appeal is satisfied that the person charged -

- (a) has not been tried within a reasonable time
- (b) is unlikely to be tried within a reasonable time or
- (c) should be granted bail having regard to all the relevant factors including those specified in Part A of the First Schedule and subsection (2B)

2A “For the purpose of Subsection 2(a) and (b)

(a) “without limiting the extent of a reasonable time, a period of three years from the date of the arrest or detention of the person charged shall be deemed to be a reasonable time.”

(b) -----

Section 2B “For the purpose of Subsection 2C including whether or not to grant bail to a person charged with an offence mentioned in Part C of the First Schedule, the character and antecedent of the person charged, the need to protect the safety of the public or public order and, where appropriate, the need to protect the safety of the victim or victims of the alleged offence, are to be primary considerations.”

The court having considered the submissions of Counsel together with the relevant law is of the view that:-

- (i) there is no unreasonable delay, no contravention of the three (3) year guideline specified in the Bail Act.
- (ii) there appears to be cogent evidence against the Applicant notwithstanding that the Applicant advanced through his Counsel that there is also conflicting evidence. This is an issue to be determined at trial as expressed in the case of Regina v. Richard Hepburn C/A No. 276/2014.
- (iii) the charge of Murder is evidently one of a serious nature and attracts a very severe penalty. As such, the Applicant may if given bail, not appear at his trial for fear of punishment associated with the offence charged.
- (iv) the Applicant previously made application for bail and was denied the same in September 2015 before Jones J. In this connection the court was reminded of the views expressed by Hall J as he then was in the case of Keith Patton & Dwight Stubbs No. 149/150/1992 “while I share the view that an applicant is entitled to approach the court continually until he is successful, if the work of the court is not to be frustrated by what would amount to an abuse of any such right, some conditions must apply to the pursuit of second and subsequent applications. I therefore, notified Counsel for the applicant that I would only entertain the fresh application so soon after the court has heard the applicant if it

could be shown that the circumstances have changed.” There are no apparent changes in the case before me.

In all of the aforementioned circumstances, the court hereby denies bail and orders that the Applicant shall remain on remand in custody pending his trial.

Dated this 20<sup>th</sup> day of April 2016

Justice

A large, stylized handwritten signature in black ink, written over the word "Justice". The signature is highly cursive and loops around the text.