

**IN COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT**

**CRIMINAL DIVISION
CRI/BAL/00183/2021**

BETWEEN

RAYMOND TRAE BAIN

Applicant

AND

THE DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Honourable Madam Justice Jeanine Weech-Gomez

**Appearances: Mr. Rhyzard Humes for the Applicant
Ms. Jacqueline Burrows for the Respondent**

Hearing Date: 18 June 2024

Bail Variation – Request to Remove Ankle Monitor – Section 9(6) of the Bail Act, Chapter 103 – Innocent until proven guilty – Article 20(2)(a) of the Constitution of The Bahamas

RULING

WEECH-GOMEZ, J:

[1.] This is an application brought on behalf of Mr. Raymond Trae Bain (“**Applicant**”) requesting a variation of his bail conditions.

Background

[2.] The Applicant was charged with: (i) Murder contrary to section 290 of the Penal Code Chapter 84; and (ii) Possession of Ammunition contrary to section 33 of the Firearms Act, Chapter 213. He was arraigned before Justice Andrew Forbes on 20 July 2021 and was a back up trial date was scheduled for 28 November 2022. A fixed trial date was scheduled for 15 May 2028 before Justice Andrew Forbes.

[3.] The Applicant filed an application for bail on 13 August 2021 and was granted bail on 09 September 2021 under the following bail conditions: (i) The Applicant is to report

to the Airport Police Station every Monday and Saturday before 6pm; (ii) He is to be fitted with an Electronic Monitoring Device (“EMD”); and (iii) He is to have no contact with the family of the deceased nor any prosecution witnesses..

[4.]He now seeks a variation of his bail conditions.

Issue

[5.]The issue that the Court must determine is whether the Applicant’s Bail Conditions ought to be varied?

Evidence

Applicant’s Evidence

[6.]The Applicant’s Affidavit provides that: (i) the Applicant was granted bail by Justice Andrew Forbes; (ii) his present bail conditions require him to wear an EMD; (iii) he is applying to have the EMD removed; (iv) his present employer is pleased with his work performance thus far but will be forced to terminate him if the EMD is not removed as it is not suited for the upcoming projects and clientele (a copy of the letter from the CEO of Splice and Connect Company Limited, Mr. Leonardo Johnson, dated 29 May 2024 is attached to the affidavit); (v) the Applicant’s trial is in 2028, which is far and he wishes to have the ability to earn a living and to take care of his responsibilities; and (vi) the Applicant will continue to comply with the other bail conditions.

Respondent’s evidence

[7.]The Respondent did not provide any affidavit evidence in response to this application.

Discussion and Analysis

Whether the Applicant’s Bail Conditions ought to be varied?

[8.]The Court’s power to vary existing bail conditions is governed **section 9(6) of the Bail Act, Chapter 103**. It provides:

“(6) Where a Court has granted bail in criminal proceedings, the Court may on application —

(a) by or on behalf of the person to whom it was granted; or

(b) by the prosecutor or a police officer

vary the conditions of bail or, in respect of bail which it has granted unconditionally, impose conditions.”

[9.] By virtue of **Article 20(2)(a) of the Constitution of The Bahamas**, every person charged with a criminal offence is presumed innocent unless and until his guilt is proven or pleads guilty to the offence he is so charged. The Article provides:

“(2) Every person who is charged with a criminal offence —

(a) shall be presumed to be innocent until he is proved or has pleaded guilty”

[10.] The Applicant is thus cloaked with the presumption of innocence until his guilt is proven. I have reviewed the affidavit evidence of the Applicant and note that his employment requires travel on occasion and his employment is contingent on the removal of the EMD. I shall take this into consideration along with the other evidence provided therein. It is also noted that one of the suretors take no objection to the requested variation and has stated that he will be responsible for the bail bond, should the Applicant abscond or fail to comply with any other bail condition.

[11.] The application before me is unchallenged by the Respondent. Bearing in mind the aforementioned law along with the unchallenged evidence, I am prepared to grant the variation of bail sought by the Applicant. Accordingly, I shall vary his existing bail conditions.

CONCLUSION

[12.] Based on the aforementioned principles, the Applicant’s bail conditions are hereby varied.

[13.] The Applicant’s existing bail conditions are varied as follows:

(a) *The Electronic Monitoring Device placed on the Applicant shall be removed.*

(b) *Subject to paragraph C below, the Applicant will continue to sign in to the Airport Police Station on Mondays and Saturdays before 6pm.*

(c) *Anytime the Applicant leaves the island of New Providence as a result of being sent to a Family Island on assignment by his employer, the conditions as set out at paragraph B above shall be suspended until he returns to the Island of New Providence. Prior to the Applicant’s departure to any Family Island he must, immediately through his counsel, provide his travel itinerary to the Court, which*

must, include: (i) the name of the island, the settlement and address to which he shall be going; and (ii) the length of time of his assignment.

- (d) Upon his return to New Providence, the Applicant's original sign in conditions will resume.*
- (e) The Applicant shall surrender his passport to the Criminal Registry until the conclusion of his trial or otherwise ordered.*
- (f) All other existing bail conditions shall remain in effect unless and until such conditions are varied.*

Dated this 20th day of June 2024

**Jeanine Weech-Gomez
Justice**