COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT

CRIMINAL DIVISION
No. CRI/BAL/00720/2017

RODMAN RODGER KNOWLES

(a.k.a Rodman Cyril Knowles)

Applicant

AND

THE DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before:	**The Honourable Madam Justice Jeanine Weech-Gomez**
Appearances:	**Mr. Rodman Knowles appearing Pro Se**
	Ms. Jacqueline Burrows for the Respondent
Hearing Date:	**21 May 2024**

Bail Application – Possession of a Prohibited Weapon – Possession of Ammunition – Threats of Death – Nature and Seriousness of Offences – Public Safety and Order – Antecedents – Whether the Applicant would appear for his trial – Reasonable suspicion of Applicant having committed, or of being about to commit, a criminal offence – Cogent Evidence

BAIL RULING

Background

1. Rodman Knowles ("**Applicant**") is charged with the following offences: (i) Possession of a Prohibited Weapon contrary to section 31 of the Firearms Act, Chapter 213; (ii) Possession of Ammunition contrary to section 9(2)(a) of the Firearms Act, Chapter 213; and (iii) Three (3) counts of Threats of Death, contrary to section 418 of the Penal Code, Chapter 84 ("**Offences**").

2. The Applicant made an application for bail through the Bail Kiosk System at the Bahamas Department of Corrections.

3. The Respondent filed an Affidavit in Response.

Issue

4. The issue for this Court to consider is whether the Applicant should be granted bail?

Evidence

Applicant's Evidence

5. The Applicant states that: (i) he was charged with the wrong offences (threats of death) and they were withdrawn by the Respondent; (ii) he was falsely accused; (iii) he had no knowledge that there was a gun in the car and he immediately surrendered to police when asked to step out of the vehicle; (iv) there is no evidence that he ever made threats of death to the police and said that the police ought to have a body camera evidencing such threats allegedly uttered by the Applicant; (v) he was granted bail in the past, but he breached his bail conditions and was thus remanded to prison; (vi) he was a self-employed Dry Waller and Jet Ski Operator prior to incarceration; (v) he has a one (1) year old daughter and a two (2) year old boy; and (vi) he lived with his sister on Dorsett Street, Fox Hill prior to his incarceration

Respondent's Evidence

6. The Respondent's Affidavit in Response ("**DPP Affidavit**") provides that: (i) the Applicant was charged with the Offences (the Charge Sheet and Voluntary Bill of Indictment are exhibited to the Affidavit); (ii) that, in relation to possession Offences on 23 December 2023, sometime after 11pm, officers were responding to "shots fired" information received via the shotspotter technology in the Dorsette Street Area. Once on the scene officers stopped a dark colored Nissan Cubed driving in a suspicious manner. When beaconed by police officers to exit the vehicle, the Applicant emerged from the vehicle with his hands up. Another individual, holding a rifle with both hands, attempted to run and the police followed in hot pursuit, eventually apprehending him (after a struggle which ended with the individual being transported to the Princess Margaret Hospital); (iii) Upon arrest, the Applicant said: "Why yall acting like yall don't know who I is? I on bail for murder now. When I get bail for this, I killing all yall!" (the report of Able Seaman Raynaldo Pinder is exhibited to the Affidavit); (iv) the Criminal Antecedents Form for the Applicant confirms that the Applicant has two pending charges (Murder and Attempted Murder – the Criminal Antecedents Form is exhibited to the Affidavit; (v) the Respondent opposes bail as he is a threat to public society (based on the foregoing); and (vi) the Applicant is not a fit and proper person for bail. They also stated that the charges relating to Threats of Death have not been withdrawn.

Law

7. The law of bail settled in this jurisdiction. The Court must balance the Applicant's presumption of innocence until his guilt is proven with the need to protect the society from crime and violence and maintain public order. A person's right to freedom and the

presumption of innocence are enshrined in our Constitution. **Articles 19(1)(d), 19(3) and 20(2)(a) of the Constitution of The Bahamas** provide:

> *"19 (1). No person shall be deprived of his personal liberty save as may be authorized by law in any of the following cases-*
>
> *...*
>
> *(d) upon reasonable suspicion of his having committed, or of being about to commit, a criminal offence;"*
>
> *"19(3). Any person who is arrested or detained in such a case as is mentioned in subparagraph 1(c) or (d) of this Article and who is not released shall be brought without undue delay before a court; and if any person arrested or detained in such a case as is mentioned in the said subparagraph 1(d) is not tried within a reasonable time he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon reasonable conditions including in particular such conditions, as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.*
>
> *20. (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..."*

8. The Court's power to grant bail is expressly provided at **section 4 of the Bail Act, 1994 ("Act")**. **Section 4(1) of the Act** which states:

> *"(1) Notwithstanding any other enactment, where any person is charged with an offence mentioned in Part B of the First Schedule, the Court shall order that that person shall be detained in custody for the purpose of being dealt with according to law, unless the Court is of the opinion that his detention is not justified, in which case, the Court may make an order for the release, on bail, of that person and shall include in the record a statement giving the reasons for the order of release on bail:*
>
> *Provided that, where a person has been charged with an offence mentioned in Part B of the First Schedule after having been previously convicted of an offence mentioned in that Part, and his imprisonment on that conviction ceased within the last five years, then the Court shall order that that person shall be detained in custody."*

9. Section **4(2) of the Bail (Amendment) Act, 2011** provides:

> *"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)

And where the court makes an order for the release, on bail, of that person, it shall include in the record a written statement giving the reasons for the order of the release on bail……

(2B) For the purpose of subsection (2)(c), in deciding whether or not to grant bail to a person charged with an offence mentioned in Part C of the First Schedule, ***the character or antecedents 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****…(emphasis added)"*

10. The **First Schedule, Part A of the Act** provides factors which a Court ought to consider in a bail application. It reads:

"In considering whether to grant bail to a defendant, the court shall have regard to the following factors—

(a) whether there are substantial grounds for believing that the defendant, if released on bail, would—

(i) ***fail to surrender to custody or appear at his trial****;*

(ii) commit an offence while on bail; or

(iii) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person;

(b) whether the defendant should be kept in custody for his own protection or, where he is a child or young person, for his own welfare;

(c) ……;

(d) whether there is sufficient information for the purpose of making the decisions required by this Part or otherwise by this Act;

(e) ……;

(f) whether having been released on bail previously, he is charged subsequently either with an offence similar to that in respect of which he

was so released or with an offence which is punishable by a term of imprisonment exceeding one year;;

(g) the nature and seriousness of the offence and the nature and strength of the evidence against the defendant…(emphasis added)"

11. It is incumbent on the Crown (being the Respondent) to demonstrate, through evidence, that the Applicant would likely fail to surrender to custody, appear at trial, commit an offence while on bail, interfere with witnesses or otherwise obstruct the course of justice. This was enunciated in the Bahamian Court of Appeal decision of **Jevon Seymour v Director of Public Prosecutions, No. 115 of 2019** ("**Jevon Seymour**"). There, the court opined:

> *"…Paragraph (a) of the First Schedule to the Bail Act places an evidential burden on the Crown to adduce evidence (i.e. substantial grounds) which is capable of supporting a belief that the applicant for bail "would" if released on bail, fail to surrender to custody or appear at his trial; commit an offence while on bail; or interfere with witnesses or otherwise obstruct the course of justice. The Crown's burden is only discharged by the production of such evidence."*

12. The onerous burden of the Respondent was also observed in the case of **Vasyli v. The Attorney General [2015] 1 BHS J. No. 86** where Allen P (as she then was) made the following pronouncements:

> ""*"12. On a true construction of section 4 (2) and paragraph (a) (i) of Part A of the Bail Act, and notwithstanding the 2014 Amendment, I am still of the view that bail may only be denied if the State is able to demonstrate that there are substantial grounds for believing that the applicant would not surrender to custody or appear for trial. In assessing whether there are substantial grounds for such belief, the court shall also have regard to the nature and seriousness of the offence and the nature and strength of the evidence against an applicant as prescribed in paragraph (g) of Part*"

13. The hearing of a bail application does not entitle the court to assess the strength or weakness of the evidence against the Applicant. It is not a forensic investigation into the merits of the evidence for trial. This is a matter for the jury. This was expressly stated in the Court of Appeal decision of **Attorney General v Bradley Ferguson et al Appeal Nos. 57,106,108,166 of 2008** where the Court stated:

> *"It seems to me that the learned judge erred in relying on his assessment of the probative value of the evidence against the respondent to grant him bail. That is for the jury at trial. As stated by Coleridge J in Barronets case earlier-* ***the defendant is not detained because of his guilt but because there are sufficient probable grounds for the charge against him, so as to make it proper that he should be tried and because the detention is necessary to ensure his appearance at trial****…"*

14. Indeed, the Court of Appeal confirmed what the true test is for bail in the case of **Cordero McDonald v The Attorney General SCCrApp. No. 195 of 2016.** At paragraph 34, the Court expressly stated:

"*It is not the duty of a judge considering a bail application to decide disputed facts or law. Indeed, it is not expected that on such an application a judge will conduct a forensic examination of the evidence. The judge must simply decide whether the evidence* ***raises a reasonable suspicion of the commission of the offences by the appellant, such as to justify the deprivation of his liberty by arrest, charge, and detention. Having done that he must then consider the relevant factors and determine whether he ought to grant him bail*** *(emphasis added).*""

15. I also keep at the forefront of my mind the need to protect society. This is a significant factor a judge ought to consider in a bail application. This was stated in the Court of Appeal decision of **Dentawn Grant v The Director of Public Prosecutions SCCrApp No. 59 of 2022 ("Grant") at paragraph 42** where, the Court opined:

> *"I am also of the view that having regard to the material before the Court that this murder appears to have been in retaliation to a previous attack on the Appellant. There is not only a risk of the Appellant's safety if granted bail, but also a risk to the public's safety. Any retaliation against the Appellant puts members of the public at risk who may be in the area where any attack on the Appellant may take place. In the present case, the material before the Court does not suggest that the victim Brianna Grant was the object of the retaliation but was shot because she was with the intended victim at the time.*

16. The following pronouncements were made at paragraph 11 of **Jeremiah Andrews v The Director of Public Prosecutions SCCrApp No. 163 of 2019**:

"When an accused person makes an application for bail in relation to a Parc C Offence the Court must consider the matters set out in section 4(2)(a) and (c). This means that if the evidence shows that the accused has not been tried within a reasonable time he can be admitted to bail (as per (a)). In those circumstances where there has not been unreasonable delay the Court must consider the matters set out in (c) i.e., "all the relevant factors", including those in Part A of the First Schedule and the "primary considerations" in section 4 (2B). If after a consideration of those matters the Court is of the view that bail should be granted the accused may be granted bail."

17. In the Privy Council decision of **Hurnam v. State of Mauritius [2006] 1 WLR 857 ("Hurnam")** the board made the following pronouncements with respect to relevant factors a Court must consider in an application for bail:

> *"1. In Mauritius, as elsewhere, the courts are routinely called upon to consider whether an unconvicted suspect or defendant should be released on bail, subject to conditions, pending his trial. Such decisions very often raise questions of importance both to the individual suspect or defendant*

and to the community as a whole. The interest of the individual is of course to remain at liberty, unless or until he is convicted of a crime sufficiently serious to justify depriving him of his liberty. Any loss of liberty before that time, particularly if he is acquitted or never tried, will inevitably prejudice him and, in many cases, his livelihood and his family. ***But the community has a countervailing interest, in seeking to ensure that the course of justice is not thwarted by the flight of the suspect*** *or defendant or perverted by his interference with witnesses or evidence, and that he does not take advantage of the inevitable delay before trial to commit further offences. In this appeal the Board considers the principles which should guide the courts of Mauritius in exercising their discretion to grant or withhold bail…*

15. It is obvious that a person charged with a serious offence, facing a serious penalty if convicted, may well have a powerful incentive to abscond or interfere with witnesses likely to give evidence against him, and this risk will often be particularly great in drugs cases. Where there are reasonable grounds to infer that the grant of bail may lead to such a result, which cannot be effectively eliminated by the imposition of appropriate conditions, they will afford good grounds for refusing bail….The seriousness of the offence and the severity of the penalty likely to be imposed on conviction may well…provide grounds for refusing bail, but they do not do so of themselves, without more: they are factors relevant to the judgment whether in all the circumstances, it is necessary to deprive the applicant of his liberty. Whether or not that is the conclusion reached, clear and explicit reasons should be given…(emphasis added)"

18. The Bahamian Court of Appeal in **Dennis Mather v Director of Public Prosecutions BS 2020 CA 163** ("**Dennis Mather**") underscored, the significance of the Applicant's likelihood to appear at trial if he were to be granted bail. At paragraphs 16 to 17 of that decision, Barnett P made the following pronouncements:

"16. The main consideration for a court in a bail application is ***whether the applicant would appear for his trial****. In Attorney General v. Bradley Ferguson, et al SCCrApp. No.'s 57, 106, 108, 116 of 2008, Osadebay, JA observed as follows:*

> *"As stated by Coleridge J in Barronet's case cited earlier* ***the defendant is not detained in custody because of his guilt but because there are sufficient probable grounds for the charge against him, so as to make it proper that he should be tried and because the detention is necessary to ensure his appearance at trial****."*

17. In Jonathan Armbrister v The Attorney General SCCrApp. No. 145 of 2011, John, JA said as follows:

> *"12. It has been established for centuries in England* ***that the proper test of whether bail should be granted or refused is whether it is probable that the defendant will appear to take his trial, and that bail is not to be withheld merely as punishment.*** *The courts have also evolved, over the years, a number of considerations to be taken into account in making the decision, such as the nature of the charge and of the evidence available in support thereof, the likely sanction in case of conviction, the accused's record, if any and the likelihood of interference with witnesses (emphasis added)."*

DISCUSSION AND ANALYSIS

Whether the Applicant should be granted bail?

19. I shall now apply the aforementioned principals to the instant case and consider the evidence.

20. Based on the evidence before me, the Applicant was the driver of a vehicle which allegedly was involved in a shooting at the relevant crime scene. Not only that, but an individual emerged from the vehicle with a rifle in both hands and allegedly shot at police officers while they were in hot pursuit of the said individual. Further, live rounds of ammunition were found in the vehicle which the Applicant was driving at the time of arrest. Whereas the utterance in relation to the alleged threats of death (as contained in the DPP Affidavit) is hearsay evidence, it was corroborated through a report prepared by an individual present at the time the words were uttered. According to the evidence, he was one of the persons the Applicant directly made the alleged threats of death to. I therefore accept this as strong and cogent evidence regarding the alleged threats of death and the other Offences.

21. Heeding the admonishments of ***McDonald***, I will not delve deeply into the evidence. This is for the jury at trial. I am satisfy of the cogency of the evidence as against the Applicant.

22. I am satisfied that there is reasonable suspicion that the Applicant committed the Offences.

23. I now turn to public safety. The Offences involve Possession of a Prohibited Weapon, Possession of Ammunition, three (3) counts of Threats of Death and the Applicant presently has two (2) pending charges: (i) Murder; and (ii) Attempted Murder. All Offences and the aforementioned charges are quite serious. I bare in mind the sage advice of the Court in **Lorenzo Wilson v The Director of Public Prosecutions SCCrApp No. 29 of 2020** at paragraphs 19 to 21:

> *"19 As to the antecedents, it is not required to show that the appellant lives a habitual life of crime before taking his antecedents into account.*

20 In this case, the appellant is 24 years old and has already been convicted of a criminal offence which was serious enough to serve 18 months imprisonment. That offence involved an unlicensed firearm and this offence also involves a firearm which was alleged to be used indiscriminately against members of the public on a public street.

21 In our view, it was not unreasonable for the judge to have found that the appellant was a danger and not a fit person to be granted bail"

24. This Court is of the view that such evidence suggests that the Applicant poses a great threat to public safety and order. The alleged offences are all heinous. Releasing the Applicant on bail will most likely place the public in fear and endanger the lives of innocent members of society. I cannot allow that.

25. In relation to whether or not the Applicant will appear for trial, it is unlikely the Applicant would avail himself to trial. He is before this Court for some six (6) Offences and two (2) additional charges. The additional charges suggest that he is graduating to more severe and serious criminal activities.

26. Accordingly, the evidence before me suggests that the Applicant will likely abscond. Should he be found guilty of the Offences, the penalty will be severe. This, in my view, is more than enough reason for the Applicant to not only absent himself from trial, but abscond should he be granted bail. This too, is another factor which leads me to believe that bail would not be suitable in the circumstances.

27. I also note that, through his own admission, the Applicant was granted bail in the past, but breached the conditions of bail. This, in my view, makes it patently clear that he is likely not to abide to the conditions set by this Court should I be minded to grant bail.

28. Courts must be robust, sure and deliberate in relation to protecting not only the rights of the Applicant, but the rights of society. Even though an accused persons is presumed innocent until his guilt is proven through evidence at a trial, society must feel sure that the Courts do everything in their power to uphold justice, law, public safety and order and, most importantly, ensure that an accused person appears for trial

29. Having regard to the Applicant's antecedents, the Offences, other pending charges, the very real risk to public safety and order and the high likelihood of the Applicant absconding if released on bail, I form the view that the Applicant is not a fit and proper person for bail.

30. Accordingly, the Applicant shall remain in custody until his trial.

Conclusion

31. In the premises, the application for bail is refused.

32. Bail is therefore denied.

Justice Jeanine Weech-Gomez

Dated this 04 day of June 2024