

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
CRIMINAL LAW DIVISION
2022/CRI/bail/00164**

BETWEEN

JARVIS JOSEPH

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Hon. Justice Neil Brathwaite

**Appearances: Mr. Ian Cargill for the Applicant
 Ms. Kara Butler-White, Ms. Vashti Bridgewater for the
 Respondent**

Hearing Date: 11th September A.D. 2024

RULING ON BAIL

1. The Applicant seeks bail on charges of Armed Robbery and Receiving, on which he was arraigned in the Magistrate's Court on 1st March 2024. He states that he is a 25 year old Bahamian male, and was employed as a jet-ski operator at the time of his arrest. He further states that he has previous convictions and pending matters, and will reside at Flemming Street if granted bail.
2. The prosecution objects to bail on the basis that the Applicant has previous convictions for Possession of Dangerous Drugs, and Possession of Unlicensed Firearm and Ammunition, and that he therefore poses a threat to public order. They also note that the Applicant has previously been convicted for Violation of

Bail Conditions, and that he was on bail for Attempted Murder at the time of the commission of the offence, and therefore suggest that the Applicant cannot be relied upon to abide by any bail conditions if granted bail. They submit that the evidence is cogent, raising the likelihood of a risk of flight, and therefore urge the court to refuse bail.

3. I bear in mind the constitutional presumption of innocence, as well as the right to liberty, and note that the court on a bail application is not conducting a trial of the matter. However, I am concerned with the state of the evidence in this matter. The affidavit in response exhibits the statement of a witness who has identified the Applicant as one of two men who were seen putting on masks and walking through a short cut toward John Street. That statement also indicates that the witness later heard that Chances Web Shop had been robbed, and that persons wearing clothing fitting the description of the men who had been seen putting on masks were responsible. There is also exhibited to the affidavit a Record of Interview of a co-accused, who was the driver of a vehicle from which the men who put on masks were alleged to have emerged, and who states that the Applicant was one of the persons who left his vehicle with masks and handguns. That co-accused was apparently shown a video of the incident, and identified the two persons in the video as the Applicant and another male.

4. While I bear in mind that the court in a bail application is not conducting a trial of the matter, I also bear in mind that there must be evidence of at least a prima facie case sufficient to justify the continued detention of the Applicant. There are many authorities which have stated and restated the maxim that a man may only confess for himself, and that admissions made by one co-accused are evidence against him only. I am therefore constrained in this case to disregard any admissions made by a co-accused, and can only have regard to the statements of the witness who identified the Applicant as putting on a mask and being armed

with what appeared to be a firearm. While that evidence is extremely suspicious, and sufficient to show that the Applicant was involved in criminality, in my view it would be difficult to consider this a strong enough case to support an inference of flight, particularly where there is not even an indication in the affidavit of the location of the establishment that was robbed.

5. I am extremely concerned in this case that the Applicant has several antecedents, that he was on bail at the time he was arrested for the present offence, and that he has previously been convicted for breach of bail, all of raise serious concerns about the likelihood of reoffending which militate against the grant of bail. However, it could not in my view be justifiable to have an Applicant remain in custody on evidence which is unlikely, on its face, to rise to the requisite criminal standard at trial.

6. In all the circumstances of this case, bail is granted in the amount of \$15,000.00 with one or two suretors. The Applicant is to be fitted with an Electronic Monitoring Device, and is to observe a curfew between the hours of 9pm to 6am. The Applicant will surrender his travel documents to the Registrar of the Supreme Court, and is to report to the Quakoo Street Police Station every Monday, Wednesday, and Friday before 6pm. The Applicant is to have no contact with the witnesses either personally or by an agent. Any breach of these conditions will render the Applicant liable to remand.

Dated this 25th day of September A.D., 2024



Neil Brathwaite
Justice

