

IN THE COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
CRIMINAL LAW DIVISION
2018/CRI/bail/00334

BETWEEN

ANTONIO NEELY

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Hon. Justice Neil Brathwaite

Appearances: Ms. Cassie Bethel for the Applicant
Ms. Kara Butler-White, Ms. Vashti Bridgewater for the Respondent

Hearing Date: 17th September A.D. 2024

RULING ON BAIL

[1.]The Applicant seek bail on charges of Murder and Attempted Murder, on which he was remanded in custody since March 2024. The application is supported by an affidavit in which the Applicant avers that he is 30 years old and a father of two, that he was employed in car washing on Harbour Island, that he has previous convictions for Threats of Death, Dangerous Drugs, and Wantonly Discharging a Firearm, and has pending matters for Armed Robbery and Attempted Murder. The Applicant further states that he will have accommodations at Love Lane, Harbour Island should he be granted bail. He maintains his innocence, and suggests that if not granted bail he will be disadvantaged in his ability to support himself and his family, and to prepare his defence.

[2.]In seeking to oppose the application, the Respondent proffered the affidavit of Xandrell Bain, Counsel in the Office of the Director of Public Prosecutions, to which are exhibited a number of reports which reveal that the Applicant has been identified

by two persons, to whom he was well known, as the person who shot and killed the deceased in a crowded bar at Harbour Island. The Applicant has also been identified by another witness as the person who the victim claimed had bumped him shortly before the shooting, and who was seen leaving the event immediately after the shooting. Yet another witness has identified the Applicant as the person seen putting a firearm in his pocket before the shooting, and leaving the scene immediately after the shooting.

[3.]The Respondent also notes that notwithstanding the averments of the Applicant that he has no previous conviction, the Applicant has convictions for Threats of Death, Possession of Dangerous Drugs, , Making a False Report, and Wantonly Discharging Firearm. The Applicant is also said to have pending matters for Robbery, Armed Robbery, Attempted Murder (2 Counts), Possession of a Firearm with Intent to Endanger Life (5 Counts), Possession of Unlicensed Firearm, and Possession of Ammunition for which he was on bail when he is alleged to have committed the instant offence.

[4.]Counsel on behalf of the Applicant relies on the constitutional presumption of innocence, as well as the Applicant's promise that he will not abscond or commit further offences while on bail. She further submits that there is no evidence to suggest that the Applicant is a flight risk or will interfere with witnesses, and that with respect to the antecedents, the Applicant has paid his debt to society.

[5.]In response, the Respondent submits that the evidence is cogent, that the Applicant has been identified by several witnesses, and that the Applicant has a propensity to commit serious violent offences and is a threat to public safety, given his previous convictions and pending matters, the nature of the instant offence.

[6.]The Applicant in this matter applied for bail in May 2024. That application was considered and refused, on the basis that, having regard to the antecedents of the Applicant, as well as the pending matters, this court was satisfied that the Applicant posed a threat to public safety and order. The court was also concerned that the Applicant had not been full and frank in the affidavit in support. I bear in mind the duty of the court to consider each application afresh on its merits, as well as the presumption of innocence and the balancing act between the liberty of the subject and the need to protect the public inherent in bail applications. Having considered the matter afresh, and having regard to the antecedents of the Applicant, as well as the pending matters, and the fact that the Applicant was on bail when he was charged

with other serious offences, while there has been some compliance with the duty of full and frank disclosure in the current application I remain satisfied that the Applicant poses a risk to public order and safety, and that that risk cannot be ameliorated by any conditions which might be imposed.

[7.]In the premises, having considered the evidence and relevant factors, I am satisfied that the Applicant is not a fit and proper candidate for admittance to bail. Bail is therefore refused.

Dated this 8th day of October A.D., 2024



Neil Brathwaite
Justice

