COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

CRIMINAL LAW DIVISION

2016/CRI/Bal/405

BETWEEN

ADARI ANEJO WRIGHT

Applicant

V

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: **The Honourable Mr. Justice Franklyn K M Williams MB KC**

Appearances: Alex Dorsett for the Applicant

Mrs. Janet Munnings for the Director of Public Prosecutions

Hearing Date: 17th June 20

RULING ON BAIL

Williams J

[1.] The applicant Bahamian citizen is charged with Murder, Attempted Armed Robbery, Possession of an Unlicenced Firearm, Possession of Ammunition and two (2) counts of Possession of a Firearm with Intent to Endanger Life.

[2.] The applicant makes his application by summons attended by affidavit.

[3.] The respondent relies on the affidavit of Max Garry Julien, counsel, for the Director of Public Prosecutions in opposition to the application. Appended thereto are witness statements which contain the allegations against the applications, and for which cause bail is opposed.

[4.] The statements allege that on 22 May 2023 the complainant along with a friend were parked in the area of the Sapodilla restaurant when approached by the applicant who, armed with a handgun ordered her out of her 2010 Nissan Murano. She whilst running away saw a police vehicle, and made complaint to police officers therein. The applicant attempted to make good his escape, chased by the police officers. He fired several times at the pursuing police vehicle. The applicant was identified by the passenger

[5.] Documents appended to the respondent's affidavit further allege that on 3rd January 2021, the applicant, in retaliation for an assault on his mother, and himself, murdered D'Andre Thompson. The applicant was identified by his "girlfriend" who witnessed both the assaults and the shooting resulting in the death of the deceased.

LAW AND ANALYSIS

[6.] The applicant has no antecedents and the presumption of innocence obtains.

[7.] Allen P in **Richard Hepburn v The Attorney General** SCCr.App. No. 276 of 2014 summed up the tension of competing interests at stake on an application for bail:

"The general right to bail clearly requires judges on such an application, to conduct realistic assessment of the right of the accused to remain at liberty and the public's interest as indicated by the grounds prescribed in Part A for denying bail. Ineluctably, in some circumstances, the presumption of innocence and the right of an accused to remain at liberty, must give way to accommodate that interest."

[8.] On an application for bail pursuant to section 4(2)(c), I am required to consider the relevant factors set out I Part A of the First Schedule, as well as the provisions of section 2B.

[9.] There has not been unreasonable delay in trial either of threats of death and threats of harm or the matter here. The applicant is not, per law, a person of good character.

[10.] In considering the relevant factors on an application for bail, I note that the applicant is charged with serious offences, involving the use of a firearm and resulting in the apprehension of fear (two counts), two of which involve violence directed at police officers. With respect to the seriousness of the offences , I am mindful that this is not a freestanding ground for the refusal of a bail application, yet it is an important factor which I must consider.

[11.] In the Court of Appeal decision of ***Jonathan Armbrister v The Attorney General*** SCCrApp. No 45 of 2011, the court stated:

"The seriousness of the offence, with which the accused is charged and the penalty which it is likely to entail upon conviction, has always been, and continues to be an important consideration in determining whether bail should be granted or not. Naturally, in cases of murder and other serious offences, the seriousness of the offence should invariably weigh heavily in the scale against the grant of bail.".

[12.] I note also the dicta of the Court of Appeal in ***Jeremiah Andrews v The Director of Public Prosecutions*** SCCrApp No. 163 of 2019:

"30. These authorities all confirm therefore the seriousness of the offence, coupled with the strength of the evidence and the likely penalty to be imposed upon conviction, have always been, and continue to be important considerations in determining whether bail should be granted or not. However, these factors may give rise to an inference that the defendant may abscond. That inference may be weakened by the consideration of other factors disclosed in the evidence. e.g. the applicant's resources, family connections.".

[13.] No direct evidence notwithstanding, the possible penalty upon conviction raises the issue of the likelihood of not appearing for trial.

[14.] Such likelihood is contrasted with the nature of the evidence against the applicant. In ***Cordero McDonald v The Attorney General*** SCCrApp No.195 of 2016, Allen P 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."

[15.] On this issue of cogency, I note the dicta of the Court of Appeal in ***Stephon Davis v DPP*** SCCrApp No.20 of 2023:

"In our view "strong and cogent evidence" is not the critical factor on a bail application. The judge is only required to evaluate whether the witness statements show a case that is plausible on its face. To put it another way, there must be some evidence before the court capable of establishing the guilt of the appellant. In essence, the test is prima facie evidence, comparable to what is required at the end of the prosecution's case in a criminal trial. We can find a useful summary of the strength of the evidence require at the end of the prosecution's case in the headnote to the Privy Council's decision in Ellis Taibo [1996] 48 WIR 74:

"On a submission of no case to answer, the criterion to be applied by the trial judge is whether there is material on which a jury could, without irrationality, be satisfied of guilt; if there is, the judge is required to allow the trial to proceed."

[16.] In my view, the evidence discloses a prima facie case, as the complainants allege eyewitness accounts of the applicant's offending here. These accounts reveal a threat to the public safety and public order. In these circumstances, I am satisfied that if released on bail, the applicant will reoffend.

[17.] In respect of public safety and order, I note that whilst the applicant was on bail for the serious and violent offence of murder, the applicant is alleged to have committed the offences of armed robbery, and putting police officers, tasked with the protection of the public, in fear by means of the use of a firearm. Both offences involve the use of a firearm, the former a retaliatory act. While the presumption of innocence obtains, the cogency of the evidence in both cases is such as to amount to a strong prima facie case that the applicant committed these offences, and thus poses a threat to the public safety and order. I note that a firearm linked to the latter offences is alleged to have been recovered.

[18.] I have considered the utility of imposition of the usual conditions of reporting, electronic monitoring and curfew in mitigating the risks that here obtain. In my considered view, there are none.

[19.] In the premises, I find that the applicant is not a fit and proper candidate for bail; therefore bail is refused.

Franklyn K M Williams OB KC

Justice

12 July 2025