COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

CRIMINAL LAW DIVISION

2015/CRI/Bal/00314

BETWEEN

DOMONIQUE ROLLE

Applicant

V

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

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

Appearances: Damien White for the Applicant

Ms. Kara White for the Director of Public Prosecutions

Hearing Date: 17th June 2025

RULING ON BAIL

Williams J

[1.] The applicant Bahamian citizen is charged with Murder(two counts) and Attempted Murder (two counts) on Information 147/06/2021, the trial of which is scheduled for Monday 3rd November 2025. He is charged with murder (two counts) and Possession of a Firearm with intent to endanger life (two counts) on a

separate Information 61/5/2020. Notably, he has previous convictions for Possession of Unlicensed Firearm and Possession of Ammunition.

[2.] The applicant makes his application by summons attended by affidavit. He states that he has previous convictions. Prior to his remand, he was employed in air condition and refrigeration. If granted bail, he will reside at Calabash Bay, Andros. He pledges to abide by any conditions if granted bail, and claims that he will be disadvantaged in his ability to support his family and himself.

[3.] The respondent relies on the affidavit of Tanesha Forbes, counsel, for the Director of Public Prosecutions in opposition to the application. Appended thereto are witness statements which contain the allegations against the applicant, and for which cause bail is opposed. The applicant has been identified by eyewitnesses in each of the incidents as the shooter, or facilitating the shooter.

[4.] The respondent notes the serious nature of the charges, for which the penalties are severe, raising the likelihood of absconding. The respondent suggests that the applicant should be kept in custody for his own safety, to prevent his being killed.

LAW AND ANALYSIS

[5.] The presumption of innocence obtains.

[6.] Allen P in **Richard Hepburn v The Attorney General** SCCr.App. No. 276 of 2014 summed up the tension of the 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.] The applicant is charged with two counts of murder and two counts of attempted murder, and that he is charged with two counts of attempted murder

and two counts of possession of firearm with intent to endanger life, all involving the use of a firearm. In each case, the applicant was identified as committing the offence. Regarding the seriousness of these offences,I remind myself that this is not a freestanding ground for the refusal of bail, yet it is an important consideration in determining whether the accused is likely to appear for trial.

[10.] 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.] The possible penalty upon conviction for each of the alleged offences raises the issue of the likelihood of the applicant 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.] While I bear in mind that I am not to engage in a forensic examination of the evidence, the evidence, in my view discloses a prima facie case. The applicant has been identified by an eyewitness in each of the offences alleged.

[17.] In respect of the nature of the offences and strength of the evidence, I have serious concerns that the applicant will not appear for trial. In respect of the public safety and order, I note that the applicant has on separate occasions been charged with taking lives, attempted taking lives, and endangerment of lives, all whilst using a firearm. The applicant has previous convictions for possession of an unlicensed firearm and ammunition. In the premises, there is, in my view, a need to protect the public.

[18.] I have considered the utility of imposition of the usual conditions of reporting, electronic monitoring and curfew in mitigating the threat to the public order and safety. However, having taken into consideration the applicant's antecedents, the nature and seriousness of the charges here, as well as the cogency of the evidence, I am of the view that said conditions would not suffice to protect the public order and safety. Here the presumption of innocence must give way to the public interest.

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

Franklyn K M Williams KC MB

Justice

17 July 2025