

**COMMONWEALTH OF THE BAHAMAS**  
**IN THE SUPREME COURT**  
**CRIMINAL DIVISION**  
**2019/CRI/BAL/589**

**BETWEEN**

**ALEXANDER SANDS A.K.A “ALEX”**

**Applicant**

**AND**

**DIRECTOR OF PUBLIC PROSECUTIONS**

**Respondent**

**Before:** The Honourable Madam Justice Weech-Gomez

**Appearances:** Ms. Desiree Ferguson for the Director of Public Prosecutions  
Mr. Nathan Smith for the Defendant

**Hearing Dates:** 19<sup>th</sup> August 2025.

**RULING – BAIL DECISION**

**Criminal Law – Bail – The Constitution – Bail Act, Chapter 103 (as amended) – Application for Bail**

**WEECH-GOMEZ, J.**

**Introduction**

[1.] Alexander Sands, the Applicant stands charged with one (1) count of **Murder contrary to section 291(1)(b) of the Penal Code, Chapter 84.**

[2.] The Applicant moved the court for admission for Bail by the filing of Summons and Affidavit in Support. The Summons and Affidavit were filed on 10<sup>th</sup> September 2025.

[3.] The Respondent opposed the Application in an Affidavit filed in support on 10<sup>th</sup> September 2025.

### **Applicant's Affidavit Evidence**

[4.] The Applicant in his Affidavit averred as follows:

- i. I deny the allegations contained in the Respondent's affidavit and state that the evidence relied upon by the prosecution is tenuous and unsatisfactory, such that continued detention would be unjust.
- ii. In particular, I note that there exists no handwritten statement by the deceased, nor any corresponding contemporaneous statement of identification of myself via photo array. The only material relied upon is hearsay and subsequent assertions, the admissibility and weight of which are in serious doubt.
- iii. I further state that there is no prior report or record from the Bahamas Department of Corrections evidencing any altercation between myself and the deceased, despite such assertions being advanced to suggest animosity or motive.
- iv. The absence of such critical corroborating evidence renders the prosecution's case weak and incapable of satisfying the standard that would justify continued pre-trial incarceration.
- v. I rely upon the principles restated by the Court of Appeal in *Jermaine Missick v Regina* SCCrApp No 251 of 2017, where the Court emphasized that where identification evidence is tenuous, inconsistent, or hearsay in nature, it cannot properly sustain a conviction and ought not justify the denial of liberty at the bail stage.
- vi. Applying those principles, I verily believe that my case is materially similar in that the alleged identification is unreliable, uncorroborated, and contradicted by the absence of essential documentation.
- vii. I therefore submit that there are no substantial grounds to conclude that I would interfere with witnesses, abscond, or commit further offences if admitted to bail. I remain willing to comply with any reporting if admitted to bail. I remain willing to comply with any reporting conditions, curfew, electronic monitoring, or other terms this Honourable Court deems fit to impose.

### **Respondent's Affidavit Evidence**

[5.] The Respondent opposed the Application, a summary of the grounds are as follows:

- “i. That having regard to the cogency of the evidence and the seriousness of the offence, the Respondent verily believes that due to the severity of the penalty if convicted, it is sufficient incentive that the Applicant may abscond.
- ii. that given the nature and circumstances of the offence, the Applicant is likely to commit further offences should he be granted bail.
- iii. That the Applicant is alleged to be a member of the Tiger Nation Gang and should be kept in custody for his own safety and protection, as well as to preserve public order.

- iv. that the Court take Judicial Notice of the retaliatory killing plaguing our country. In particular, the number of Applicants charged with serious offences, who, when released on bail, were themselves murdered.
- v. The Respondent also ask this Honourable Court to take Judicial Notice of the high rate of murder in the community and the growing culture of vigilantism.
- vi. Although the Applicant is presumed innocent, the Respondent prays that this Honourable Court exercise a balancing act as it relates to the Applicant's right to liberty and public safety and order.
- vii. that the Applicant should be kept in custody because there is nothing peculiar about the Applicant's circumstances that would suggest that the continued detention is unjustified or unfair at this time.
- viii. That there has been no unreasonable delay regarding this matter.
- ix. The Applicant's trial date has been set for 10<sup>th</sup> September, 2025, so that the continued detention of the Applicant would not be unreasonable.
- x. that given the nature and circumstances of the evidence, there is a need to protect the safety of the witnesses, the public and public order.
- xi. That the Applicant for the above reasons is not fit and proper candidate for bail, and in the circumstances, the Respondent requests that this Honourable Court, in exercising its discretion, not admit the Applicant to Bail."

## **LAW**

[6.] The law of bail is well settled. When it comes to determining bail, the applicant is presumed to be innocent of these charge contained in the Indictment until proven guilty. The right to freedom and the presumption of innocence are enshrined in the Constitution of The Bahamas. Articles 19(1)(d), 19(3) and 20(2)(a) provides:

**"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."**

[7.] The presumption of innocence in the Constitution gives the Applicant the right to bail, and the Respondent must not only assert but also prove that the conditions listed in Part A of the First Schedule are satisfied.

[8.] The Courts power to grant bail is expressly stated in **Section 4(1) of the Bail Act, Chapter 103 (“Bail Act”)** provides:-

**“(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, of that person and shall include in the record a statement giving the reasons for the order of release of 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 the person shall be detained in custody.”**

[9.] **Section 4(2) and (3) of the Bail Act, provides:-**

**“(2) Notwithstanding any other provision 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 of 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 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 here 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.**

**(2A) For the purpose of subsection (2)(a) and (b) –**

**(a) without limiting the extent of a reasonable time, a period of three years from the date of arrest or detention of the person charged shall be deemed to be a reasonable time;**

**(b) delay which is occasioned by the act or conduct of the accused is to be excluded from any calculation of what is considered a reasonable time.**

**(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.**

**(3A) notwithstanding section 3 or any other law, the Magistrates Court shall not have jurisdiction for the grant of bail in respect of any person charged with an offence mentioned in Part C or Part D of the First Schedule.”** (Emphasis added)

[10.] In **Duran Neely v The Attorney General Appeals No. 29 of 2018**, Evans JA at paragraph 17 stated:

**“17. It should be noted that Section 4 of the Bail Act does not provide the authorities with a blanket right to detain an accused person for three years. In each case the court must consider what has been called the tension between the right of the accused to his freedom and the need to protect society. The three-year period is, in my view, for the protection of the accused and not a trump card for the Crown. As I understand the law when an accused person makes an application for bail the Court must consider the matters set out in Section 4(2)(a), (b) and (c). This means that if the evidence shows that the accused has not been tried within a reasonable time or cannot be tried in a reasonable time he can be admitted to bail as per (a) and (b). In those circumstances where there has not been unreasonable delay the Court must consider the matters set out in (c). If after a consideration of those matters the Court is of the view that bail should be granted the accused may be granted bail.”**

[11.] The consideration for this Court is whether the Applicant can be tried within a reasonable time and whether there has been an unreasonable delay that would warrant his being granted bail, as his right to trial within a reasonable time is in jeopardy. In the instant case, the murder is alleged to have taken place on 10<sup>th</sup> July 2022. The Applicant was arrested, charged and remanded in custody since January 2023. The Applicant has already spent two years and eight months on remand, which is four months short of the statutory period of reasonable time.

[12.] It is unlikely that a trial will be conducted prior to the statutory threshold, given that at the hearing on 10th September 2025, the trial date was vacated and a new trial date was fixed for August 2026, which is outside the statutory threshold.

[13.] The Applicant has two previous convictions. The Applicant was convicted of House Breaking and Stealing, sentenced to one year in prison on each count, and Possession of Dangerous Drugs with Intent to Supply was fined \$2000.00 or six months in prison.

[14.] The Respondent has provided no direct evidence that the Applicant will not appear for his trial. The Applicant is charged with a very serious offence, to wit Murder, in considering the penalty which may follow upon a conviction, supports the incentive to abscond.

[15.] Having regard to the severity of the charge, it is likely that he may be tempted to abscond and not appear to face the charge of Murder for which he is before the Court. The Court recognizes that imposing strict and stringent conditions will ensure that the Applicant returns for his trial.

[16.] In considering the cogency of the evidence, I take note of the following remarks by 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 shows 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 required 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.”**

[17.] The Respondent bears the responsibility to prove to the Court that there is a reasonable chance the Applicant will interfere with witnesses if bail is granted. Consequently, the prosecution must provide sufficient information to the Court to reasonably determine the potential for witness interference by the Applicant.

[18.] In the Court of Appeal case of **Johnathan Armbrister and The Attorney General SCCrApp. No. 145 of 2011**, John JA at paragraph 11 stated:

**“11. A good starting point in reviewing the principles applicable where an appellant has been charged but not yet put on trial is the statement of lord Bingham of Cornhill in *Hurnam v the State* (Supra) where he said at paragraph 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 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, is 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 in witnesses or evidence, and that he does not take advantage of the inevitable delay before trial to commit further offences.”**

[19.] The hearing of a bail application does not entitle the court to assess the strength or weakness of the evidence against the Applicant. This is a matter for the jury. This view was expressed in the case of *Attorney General v Bradley Ferguson et al* Appeal No.s 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 *Barron's* 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....”**

[20.] In ***Jonathan Armbrister v A.G.* SCCrim App. No. 145 of 2011** at paragraph 13, John JA states:

**“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 a 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 the case of conviction, the accused’s record, if any, and the likelihood of**

**interference with witnesses...The seriousness of the offence with which the accused is charged and the penalty which is likely to entail upon conviction, has always been and continue to be an important consideration determining whether bail should be granted or not. Naturally, in cases of murder and other serious offences, the seriousness of the offence invariably weighs heavily on the case against the grant of bail.”**

[21.] I accept that during bail applications, the court is not to embark on a trial of the evidence. I am satisfied that there is prima facie evidence linking the Applicant to the offence of Murder. I accept that the strength of the evidence is sufficient to support an inference that the Applicant is a flight risk.

[22.] The Applicant's bail applications were denied by my learned sister Archer-Minns on December 13, 2023, by this court on June 4, 2024, and by my learned brother Braithwaite on November 27, 2024. I acknowledge that each application was considered on its own merits. Considering the presumption of innocence, the balance between individual liberty and public safety, and the Applicant's history, I note that the trial will not occur within the three-year period deemed reasonable by Parliament. The trial date of 10 September 2025 was vacated and rescheduled for August 2026. Since January 2023, the Applicant has remained in custody. I am of the view that imposing strict bail conditions can ensure the Applicant's return for trial. Therefore, bail is granted.

[23.] The terms and conditions of bail are to be as follows. Bail is to be granted in the amount of \$20,000.00 with two suretors and under the following terms:

- i. The Applicant is to be fitted with an Electronic Monitoring Device (EMD) and is required to comply with the regulations for the use of such device;
- ii. The Applicant is required to sign in at the Central Police Station on Mondays, Wednesdays and Fridays before 6:00pm;
- iii. The Applicant is required to keep a curfew and to stay at his place of residence between the hours of 6:00pm to 6:00am daily;
- iv. The Applicant is not to come into any deliberate contact with any of the Prosecution witnesses in this matter either by himself or through an agent, nor come within 100ft of them;
- v. The Applicant is to surrender his travel documents; and
- vi. The Applicant is to surrender into custody on the Monday of his trial.

**Dated 2<sup>nd</sup> October 2025**

**The Honourable Madam Justice Jeannine Weech-Gomez**

