

**IN THE COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT**

**Criminal Division
2023/CRI/BAL/00135**

B E T W E E N

RALPH JOSEPH

Applicant

AND

THE DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Honourable Madam Justice Guillimina Archer-Minns

Appearances: Mr. Ralph Joseph, *pro se*
Ms. Davina Pinder for the Respondent

Hearing Date: 13 August 2025

DECISION ON BAIL

**CRIMINAL LAW – BAIL – THE CONSTITUTION – BAIL ACT, CHAPTER 103 –
APPLICATION FOR ADMISSION TO BAIL – MURDER CONTRARY TO SECTIONS
290(1) AND 291(1)(b) OF THE PENAL CODE, CHAPTER 84 – WHETHER THE
APPLICANT IS A FIT AND PROPER CANDIDATE FOR ADMISSION TO BAIL AT
THIS TIME**

Archer-Minns J:

Introduction

[1.] Ralph Joseph, the Applicant named herein, is a 25-year-old Bahamian national who has been arrested, charged, and is currently remanded at The Bahamas Department of Correctional Services (the “BDOCS”) in relation to VBI No. 11/ 1/ 2024 for the Tuesday, 7 November 2023 murder of Diamond Cox (the “murder offence”).

[2.] The Applicant was previously admitted to bail subject to conditions by the Honourable Madam Justice Renae McKay in VBI No. 201/7/2022 for attempted murder (2 counts) and possession of a firearm with intent to endanger life (2 counts), offences which occurred on Thursday, 9 June 2022 (the “pending offences”). Bail was granted subject to the following conditions, that –

- i. the Applicant is to report to the Quakoo Street Police Station every Tuesday and Thursday before 6:00 pm;
- ii. the Applicant is to be outfitted with an Electronic Monitoring Device and must agree to abide by the 2010 Regulations;
- iii. the Applicant is to keep a curfew at his residence from 10:00 pm to 6:00 am daily;
- iv. the Applicant is not interfere with the prosecution witnesses; and
- v. any breach of these conditions renders the Applicant liable to further remand.

[3.] The Applicant previously applied for admission to bail for the murder offence, and was denied by the Honourable Mr. Justice Franklyn Williams (the “previous application”). The previous application was made by way of The BDOCS’ Bail Request Form dated 19 February 2024. The Respondent opposed the previous application by way of an affidavit-in-response sworn by Mrs. Shaneka Carey, Counsel and Attorney-at-Law attached to the Respondent’s Office, dated and filed on 28 March 2024.

[4.] The Applicant moved this Court on the present application for admission to bail by way of a Summons dated 20 July 2025 and filed on 24 July 2025 (the “present application”). The Summons was supported by an affidavit sworn by the Applicant, dated 20 July 2025 and 24 July 2025 (the “Joseph Affidavit”).

[5.] The Respondent has opposed the present application by way of an affidavit-in-response sworn by Ms. Teneille Bain, Counsel and Attorney-at-Law attached to the Respondent’s Office, dated 5 August 2025 and filed on 6 August 2025 (the “Bain Affidavit”).

[6.] On 13 August 2025, the Court heard the parties on the present application, reviewed their respective affidavit evidence, and promised to deliver its decision on the present application on 10 September 2025. This ruling serves as the Court’s decision on the present application. For reasons which will be detailed below, the Court is satisfied, at this time, that the Applicant is not a fit and

proper candidate for admission to bail. The present application is hereby refused. The Applicant is to continue his remand at the BDOCS pending his trial date and/or any date preliminary thereto. Should the Applicant's circumstances change in the interim, he is at liberty to make an application to the Court for reconsideration of admission to bail.

Affidavit Evidence

The Applicant's Affidavit Evidence

[7.] The Applicant, in the Joseph Affidavit, averred, in part, as follows, that –

- i. He is a citizen of the Commonwealth of The Bahamas, aged 24 years old and born on 20 August 2000;
- ii. Prior to his arrest, he had several jobs. He was employed as a Bartender at the Pizza Lab Restaurant, BahaMar, Nassau, The Bahamas, did boat cleaning and detailing, and he is also a semi-skilled carpenter;
- iii. He was arrested and charged with an allegation of murder and remanded on 16 November 2023;
- iv. The Voluntary Bill of Indictment No. 11/1/2024 has been served, and his trial relative thereto is scheduled for 12 July 2027 before the Honourable Madam Justice Guillimina Archer-Minns;
- v. He has one pending matter, which is attempted murder. The trial is in 2027 before the Honourable Madam Justice Guillimina Archer-Minns;
- vi. He was convicted in 2021 for possession of dangerous drugs;
- vii. He maintains his innocence and will vigorously defend his innocence;
- viii. The alleged anonymous witness in this matter is mistaken and may have a motive for identifying him. The Electronic Monitoring Device Report is his alibi. He has no knowledge of the alleged crime that he is accused of committing;
- ix. He attends the Living Waters Church along with his family. Since his remand, he and his family have suffered financially, emotionally and mentally. He has been unable to take care of his mother. He is a hard worker and stay to himself. He is suffering unnecessary hardship and is unable to take care of himself while continually remanded. He is unable to prepare for his trial, and he is not involved in any criminal gangs or associations;
- x. He is innocent of the allegation against him in this matter, and the trial has not started;
- xi. All of his ties are to The Bahamas. He is not a flight risk. There is no incentive for him to abscond. He will appear for his trial and each adjournment thereof. He will not interfere with witnesses; and
- xii. He is a fit and proper person to be admitted to bail. There are adequate conditions that can be attached to the bail that he will abide by.

The Respondent's Affidavit Evidence

[8.] The Respondent, in the Bain Affidavit, averred, in part, as follows, that –

- i. It is alleged that the Applicant, on Tuesday, 7 November 2023, while being concerned with another and while being armed with a firearm, intentionally caused the death of Diamond Cox;
- ii. The aforementioned offence involved the use of a firearm and is an offence of a serious nature;
- iii. The Applicant is also charged with being concerned with another in VBI No. 201/07/2022 with attempted murder (2 counts) and possession of a firearm with intent to endanger life (2 counts), which occurred on 9 June 2022;
- iv. The Applicant was granted bail for those offences on 24 August 2023 by the Honourable Madam Justice Renae McKay;
- v. The Applicant is now being charged with the murder of Diamond Cox in breach of his bail conditions regarding VBI No. 201/07/2022;
- vi. The evidence in both matters is strong and cogent. The Applicant was positively identified by two witnesses, namely, Antonio Glington and Marcia Thompson, in VBI No. 201/07/2022;
- vii. The Fixed Trial Date for the Applicant in VBI No. 201/07/2022 is 12 October 2026 with a Backup Trial Date for 5 August 2025;
- viii. The Applicant was also identified in VBI No. 11/01/2024 in regard to the murder of Diamond Cox by an Anonymous Witness, Alpha;
- ix. The Fixed Trial Date for the Applicant in VBI No. 11/01/2024 is 7 June 2027 with a Backup Trial Date for 23 November 2026;
- x. Both matters are set to be heard by the Honourable Madam Justice Guillimina Archer-Minns;
- xi. There is nothing peculiar about the Applicant's circumstances that would suggest that his continued detention is unjustified;
- xii. The Applicant, while previously on bail, is again charged with a serious offence, and it is unlikely that the Applicant would comply with his bail conditions;
- xiii. The nature and seriousness of the offences, the nature and strength of the evidence, the character and antecedent form of the Applicant, and his propensity to commit gun-related offences, and there is an overriding need to protect the public safety and public order;
- xiv. In addition to public safety and public order, the Applicant should be kept for his own safety and protection;
- xv. The Court should take judicial notice of the prevalence of gun violence in the country, the current climate of retaliation against those on bail, and the fact that the charges for the Applicant has been charged largely involve the use of a firearm;
- xvi. The Applicant is not a fit and proper candidate for admission to bail at this time; and

- xvii. In the circumstances, the Respondent requests that the Court, in exercising its discretion, not admit the Applicant to bail.

Issue

[9.] The issue that the Court must determine relative to the present application is whether the Applicant is a fit and proper candidate for admission to bail at this time.

Law and Discussion

[10.] As indicated, the present application is a successive application for admission to bail being made by the Applicant in relation to the murder offence. Bearing this in mind, the Court takes judicial notice of the pronouncements made by The Bahamas Court of Appeal in the decision of **Michael Renaldo Mackey v Regina SCCrApp No. 288 of 2015; Edward Anwar Johnson v Regina SCCrApp No. 289 of 2015**, in reference to the Court's role and duty in successive applications for admission to bail being made by an accused person. As such, the Court considered the present application afresh on its merits, and had regard to and/or gave deference to the findings of fact made by the previous judge in the Applicants' previous application.

[11.] Bail refers to the pre-trial release, from custody, of an accused person pending his trial date and/or any date preliminary thereto. An accused person may be admitted to bail by the Court subject to conditions (if any) as the Court deems fit and appropriate to impose, having regard to all of the circumstances of the case. Bail is not guaranteed. The grant or refusal of bail is entirely within the discretion of the Court. However, such discretion must be exercised in a judicious manner and not capriciously. The rule of law and the administration of justice demand so. An accused person once admitted to bail must exercise due care and have a sense of responsibility not only to ensure that he complies with all of his bail conditions (if any), but he must also endeavour not to put himself into circumstances where he is before the Court charged with another offence while on bail (albeit a charge is a mere allegation that must be proven by the prosecution at trial). However, where the evidence of the subsequent offence is strong and cogent, it may be sufficient cause to warrant the accused person being denied admission to bail. Bail is also not absolute. An accused person, at any time before or during his trial, is subject to having his bail revoked and/or the conditions (if any) relative thereto varied where there is sufficient and cogent cause for such revocation and/or variation.

[12.] Notwithstanding the public's perception regarding bail and the efforts of those who attempt to abuse or take advantage of the bail process, bail is not an exercise in futility. Bail is a difficult balancing exercise, which involves two important, but competing interests, namely, the accused person's fundamental constitutional rights and freedoms having regard to his presumption of innocence and protection from arbitrary arrest and detention, and the need of society to be protected from the criminal element: **see Articles 19 (1) and (3) and 20 (2)(a) of the Constitution of the Commonwealth of The Bahamas.**

[13.] The critical issue regarding bail was highlighted by *Allen P* in The Bahamas Court of Appeal decision of **Richard Hepburn v The Attorney General SCCrApp & CAIS No. 276 of 2014**. *Allen P* at paragraphs 5 and 9 – 11 of the decision adumbrated as follows –

5. **Bail is increasingly becoming the most vexing, controversial and complex issue confronting free societies in every part of the world. It highlights the tension between two important but competing interests: the need of the society to be protected from persons alleged to have committed a crime; and the fundamental constitutional canons, which secure freedom from arbitrary arrest and detention and serve as the bulwark against punishment before conviction.**
9. Accordingly, bail is the right of a person charged with a criminal offence to be released from custody on his undertaking to appear for his trial at a specified time, and to comply with any conditions that the court may think fit to impose.
10. **The relevant law on bail is found in articles 19(3), 20(2)(a) and 28 of the Constitution, and in sections 3, and 4 of the Bail Act 1994, as amended (“the Act”). It is immediately apparent from the reading of those provisions that two distinct rights to bail are given, namely, a general right to an un-convicted person to be released on bail unless there is sufficient reason (Part A of the Schedule) not to grant it; and the absolute right of such a person to be released on bail if his constitutional time guarantee is breached or is likely to be breached.**
11. The general right to bail clearly requires judges on such an application, to conduct a 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 person to remain at liberty, **must give way to accommodate that interest.**

[Emphasis added]

[14.] Bail is governed by the Constitution of the Commonwealth of The Bahamas, the Bail Act, Chapter, Chapter 103, and the common law. The Court has, from time in memoriam, the inherent jurisdiction to grant or refuse an accused person admission to bail. Notwithstanding, Parliament, through sections 4(2)(2A) and (2B) of the Bail Act, Chapter 103, has provided the Court with general guidelines it ought to consider before deciding whether to grant or refuse bail. The Applicant has moved the Court on the present application in relation to the offence of Murder. Murder is listed in Part C of the First Schedule of the Bail Act, Chapter 103. The Court, in

determining the present application, had regard to the above-mentioned provisions of the Bail Act, Chapter 103, which provides, *inter alia* –

4. (2) **Notwithstanding any 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 or the Court of Appeal is satisfied that the person charged –**

- (a) **has not been tried within a reasonable time;**
- (b) **repealed**
- (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 whether the court makes an order for the release, on bail, of that person it shall include in the record a written statement giving 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 the 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 consideration.**

Part A (of the First Schedule)

In considering whether to grant bail to a defendant, the court shall have regard to the following factors –

- (a) **whether there are substantial grounds for believing that the defendant, if released on bail, would –**
 - (i) **Fail to surrender to custody or appear at his trial;**
 - (ii) **Commit an offence while on bail; or**

- (iii) **Interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other witness;**
- (b) **whether the defendant should be kept in custody for his own protection, or where he is a child or young person, for his own welfare;**
- (c) ...
- (d) ...
- (e) ...
- (f) ...
- (g) **the nature and seriousness of the offence and the nature and strength of the evidence against the defendant; and**
- (h) ...

[Emphasis added]

[15.] The Court is cognizant that the Applicant should not be kept in custody *ad infinitum* awaiting his trial and/or any date preliminary thereto. Bail ought not to be withheld as a pre-trial punishment. This is particularly so given that the Applicant has not yet been convicted of the murder offence by the Court. In refusing to admit the Applicant to bail, the Court must have substantial grounds to believe that the Applicant, if admitted to bail, would interfere with witnesses in his case, abscond to avoid answering to the murder offence at trial, commit other offences while on bail, or otherwise seek to pervert the course of justice.

[16.] The burden rests on the Respondent, having regard to the Applicant's fundamental constitutional rights and freedoms, to satisfy the Court that the Applicant ought not to be admitted to bail. This burden is only discharged with the production of sufficient and cogent evidence. Naked, bare, or ritualistic affidavit averments by the Respondent without more are meaningless or fundamentally unfair to the Applicant and cannot stand: **see Johnathan Ambrister v The Attorney General SCCrApp No. 145 of 2011 and Jeremiah Andrews v The Director of Public Prosecutions SCCrApp No. 163 of 2019.**

Tried Within a Reasonable Time

[17.] The Applicant, who is undoubtedly presumed innocent, ought to be afforded a fair trial within a reasonable time. What amounts to a reasonable time varies on a case-by-case basis and requires an individual assessment. Time begins to run from the point the Applicant was charged, arraigned, and remanded. Trials in the Supreme Court are being set some years ahead (even with the addition of criminal courts). This is the blunt reality of the current state of affairs of the criminal justice system in The Bahamas.

[18.] Without limiting the extent of a reasonable time, Parliament has fixed, through section 4(2A)(a) of the Bail Act, Chapter 103, three years to be deemed a reasonable time within which a

matter ought to proceed to trial. This statutory period is not a hard and fast rule or mathematical formula. It is a marker and not a limitation of what is a reasonable time. Depending on the circumstances, a reasonable time may be more, or indeed less, than three years: see **Richard Hepburn v The Attorney General SCCrApp & CAIS No. 276 of 2014**.

[19.] *Evans JA (Actg.) (as he then was)* in The Bahamas Court of Appeal decision of **Duran Neely v The Attorney General SCCrApp No. 29 of 2018** at paragraph 17 provided the following caution –

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 person 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.

[20.] While the Applicant did not out rightly advance that he would unlikely be tried within a reasonable time, the Respondent, through the Bain Affidavit, advanced that there is nothing peculiar about the Applicant's circumstances that suggests that his continued incarceration is unjustified. The Applicant further advanced that he is innocent of the allegations made against him regarding the murder offence, and that the trial relative thereto has not started. Nevertheless, the Court must consider whether the Applicant can be tried within a reasonable time. The Applicant, through his affidavit, advanced that his trial is scheduled for 12 July 2027 before this Court. The Respondent, through the Bain Affidavit, advanced that the Applicant has a Fixed Trial Date for 7 June 2027 and a Backup Trial Date for 23 November 2026 before this Court. A review of the Court's file confirmed the Applicant's trial dates. A further review of the Court's file also reveals that the Applicant has a further case management date scheduled for 10 December 2025. The Court, having regard to the relevant law, the circumstances of the present application, and the absence of any evidence to the contrary, is satisfied, at this time, that the Applicant, if further remanded, can be tried within a reasonable time. There is no evidence before the Court of any delay and/or potential delay at this time. In any event, the Applicant has a scheduled case management date before the Court on 10 December 2025. At this time, the Court would be apprised of the status of the Applicant's matter. The Court would also endeavour to ensure that the Applicant is afforded a fair trial within a reasonable time, as the Court jealously guards the fundamental constitutional rights of all persons in The Bahamas, even those charged with some of the most heinous and serious offences.

Seriousness of the offence and likelihood to abscond

[21.] The seriousness of the offence for which the accused person has been charged has always been and continues to be a material consideration for the Court in determining whether an accused person ought to be admitted to bail. However, while the seriousness of the offence is a material consideration, it is not a stand-alone ground for the refusal of bail. The seriousness of the offence

is now coupled with additional factors, namely, the strength and cogency of the evidence, the penalty likely to be imposed upon conviction, and the likelihood of the accused person absconding before trial. *Evans JA (as he then was)* in The Bahamas Court of Appeal decision of **Jeremiah Andrews v The Director of Public Prosecutions SCCrApp No. 163 of 2019**, at paragraph 30 set forth the following observation –

30. These authorities all confirm therefore that the seriousness of the offence, coupled with the strength of the evidence and the penalty likely 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 can be weakened by consideration of other relevant factors disclosed in evidence, e.g., the applicant's resources, family connection, employment status, good character and absence of antecedents.

[22.] The Applicant stands charged with Murder. Murder is a profoundly serious offence, and its seriousness cannot be overstated. It is regarded as the ultimate offence against the person. Murder demonstrates, on the part of the particular offender, a wilful and blatant disregard for the sanctity of human life. Offences such as Murder have grave implications on the economic stability, social development, national security and health care system in the Commonwealth Caribbean, inclusive of The Bahamas. Regionally, The Bahamas and the wider Commonwealth Caribbean continue to grapple with the spiralling increase of homicides, with firearms being the predominant weapon of choice.

[23.] In The Bahamas Court of Appeal decision of **Johnathan Ambrister v The Attorney General SCCrApp No. 145 of 2011**, *Isaacs JA (as he then was)* at paragraph 13 remarked –

13. ... 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.

[24.] Notably, while murder is regarded as the ultimate offence against the person, it is not within itself a sufficient cause to refuse bail, given the law as it currently stands. The Court cannot refuse bail solely because an accused person has been charged with murder (not convicted of murder) without more convincing reasons to do so. Each case must be determined on its own facts and merits.

[25.] In the present application, no evidence was advanced by the Respondent that the Applicant is a flight risk. On the other hand, the Applicant, through the Joseph Affidavit, advanced that all of his ties are to The Bahamas, *inter alia*, he is not a flight risk, there is no incentive for him to abscond, and he will appear for his trial and each adjournment thereof. However, the Applicant, having been charged with murder, is subject to a severe penalty if he is convicted and may have a powerful incentive to abscond. The Applicant is also charged, in a separate matter, with pending

offences, which are also before this Court. The pending offences are, by the same token, serious and involve the use of a firearm. The Applicant, if convicted of the pending offences, is also subject to severe penalties. The Court, having regard to the foregoing circumstances, is not satisfied that the inference of flight may be weakened by the Applicant's employment history, family connection, and community involvement. The inference is heightened.

Strength and Cogency of the Evidence

[26.] On an application for admission to bail, the Court is reminded of its limited role. The Court is not concerned with the guilt or innocence of the accused person, nor is it the duty of the Court to decide disputed facts or law or to conduct a forensic examination of the evidence presented by the prosecution or the accused person. The Court is only concerned with the strength and cogency of the evidence to link the accused person to the commission of the present offence for which he stands charged, to justify the deprivation of his liberty by arrest, charge and detention: **see Cordero McDonald v The Attorney General SCCrApp No. 195 of 2016.**

[27.] The term "strong and cogent evidence" was interpreted by *Jones JA* in The Bahamas Court of Appeal decision of **Stephon Davis v The Director of Public Prosecutions SCCrApp No. 20 of 2023**. At paragraph 19 of the decision, *Jones JA* expounded –

19. 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...

[28.] The Respondent advanced that the evidence against the Applicant regarding the murder offence is strong and cogent. The Respondent, through the Bain Affidavit, relies on the statement of an anonymous witness, Alpha, who identified the Applicant as one of the males who shot and killed the deceased, Diamond Cox. The witness stated that he or she was able to see the Applicant's face, and provided the police with a description of the Applicant and the clothing he was purportedly wearing during the commission of the offence. The witness stated that he or she knew the Applicant as he conducted "business transactions" through Peter Street, Nassau, The Bahamas. The witness was further able to identify the Applicant in a twelve-man photo array line-up.

[29.] On the other hand, the Applicant maintains his innocence and advanced, through the Joseph Affidavit, that he intends to vigorously defend his innocence. The Applicant further advanced that the anonymous witness was mistaken and may have a motive for identifying him. The Applicant stated that he has no knowledge of the murder offence for which he stands charged. The Applicant sought to rely on an Electronic Monitoring Device Report dated 9 November 2023 that was purportedly produced by Mr. Orion Bethel, President and Chief Executive Officer (CEO) of Metro Security Solution, as his alibi to the allegations made against him regarding the murder offence.

The Electronic Monitoring Device Report was not exhibited to the Joseph Affidavit. However, given that applications for admission to bail are informal proceedings and the strict rules of evidence do not apply, the Court allowed the Electronic Monitoring Device Report to be admitted into evidence. Moreover, the Court is cognizant that the Applicant is a *pro se* litigant before the Court.

[30.] The Court, having regard to the foregoing circumstances, is satisfied that the evidence against the Applicant is strong and cogent and raises a reasonable suspicion of his involvement in the commission of the offence to justify the deprivation of his liberty by arrest, charge and detention. While the Respondent's evidence against the Applicant regarding his involvement in the commission of the murder offence, at this time, stands or falls solely on the account of the anonymous witness, Alpha, and the Applicant may have an alibi to rebuff the Respondent's evidence of his involvement in the commission of the murder offence, through reliance on the Electronic Monitoring Device Report, these are disputes of fact that must be properly tested and ventilated at trial; not on application for admission to bail.

Interference with the safety of witnesses

[31.] There is no evidence advanced by the Respondent that the Applicant would interfere with the safety of any of the prosecution's witnesses. The latter may be because the prosecution's sole witness, at this time, is an anonymous witness, Alpha. Moreover, the Applicant, through the Joseph Affidavit, advanced that he would not interfere with any of the prosecution's witnesses. However, given that the anonymous witness, Alpha, resides or frequents in the same close-knit community as the Applicant, and there being a likelihood that word of mouth may get around as to his or her identity, the Court is not sufficiently satisfied that the identity and safety of the anonymous witness, Alpha, would not be at risk.

Character and Antecedents

[32.] In The Bahamas Court of Appeal decision of **Stephon Godfrey Davis v The Director of Public Prosecutions SCCrApp No. 108 of 2020**, *Isaacs JA (as he then was)* provided guidance for the Court when considering the antecedent history of an accused person on an application for admission to bail. *Isaacs JA*, paragraph 28 of that decision, expounded as follows –

28. The antecedent of an application for bail is an important factor to be taken into account by a court considering the application. This record may provide a barometer for the likelihood of the applicant to commit other offences while on bail. Although a court is obliged to have regard to the antecedents of an application for bail, little weight should be given to offences that are trivial ...

[33.] In The Bahamas Court of Appeal decision of **Dwayne Heastie v The Attorney General SCCrApp No. 261 of 2015**, *Isaacs JA (as he then was)*, at paragraph 38, made the following observation –

38. When courts are considering the grant of bail for persons charged with murder, judicial notice may be taken of the number of persons who have been charged with murder and released on bail who have themselves become victims of homicide.

[34.] *Crane-Scott JA* in The Bahamas Court of Appeal decision of **Jevon Seymour v The Director of Public Prosecutions SCCrApp No. 115 of 2019** provided the Court with non-exhaustive examples for when considering whether an accused person, on an application for admission to bail, would be deemed a threat to public safety and public order if admitted to bail. At paragraph 68 of that decision, *Crane-Scott JA* espoused –

68. If the appellant was in fact a threat to public safety or public order, or if there was evidence of specific threats which had been made against witnesses, Perry McHardy's Affidavit should have included the necessary evidence of his propensity for violence for the judge's consideration. Such evidence might have included, for example, any prior convictions (if any) for similar offences; or evidence of pending charges for violent or firearm offences; or again, evidence, for instance, of any known or suspected gang affiliation. No such evidence was placed before the learned judge, and the absence of such evidence stood in stark contrast with the evidence which the appellant had placed before the judge of good character, strong family and community ties and the fact that he had a long and unblemished record of service within the RBDF.

[Emphasis added]

[35.] The Respondent, through the Bain Affidavit, advanced that the Applicant is not a fit and proper candidate for admission to bail at this time. The Respondent further advanced that the Applicant's conduct, while on bail previously, demonstrates that he is unlikely to comply with any bail condition (if any) the Court may impose if it decides to admit the Applicant to bail. Moreover, the Applicant seemingly has a propensity to commit gun-related offences, and there is an overriding need to protect public safety and public order. The Respondent additionally advanced that the Court should take judicial notice of the prevalence of gun violence in the country, the current climate of retaliation of those on bail and the fact that the charges with which the Applicant is charged involves the use of a firearm.

[36.] Exhibited to the Bain Affidavit is the Applicant's Royal Bahamas Police Force Criminal Record Form, which reveal that the Applicant has previous convictions for prohibited fishing and possession of dangerous drugs. The Applicant also has other pending charges and the current murder offence. Given the Applicant's previous convictions, he, for the purposes of the law, cannot

assert that he is a person of good character. The Court takes further observation that the pending offences and the murder offence are offences that are violent in nature and involve the use of a firearm. This is notwithstanding that the Applicant has not yet been convicted in respect of any one of them.

[37.] The Court is satisfied that the present application goes beyond whether the Applicant would appear for his trial, but turns on whether he would be considered a threat to public safety and public order, and whether he should be kept in custody for his own safety and protection. Taking all of these factors into consideration, the Court is reasonably satisfied that the Applicant, if admitted to bail, would pose a threat to public safety and public order. Further, the Court is reasonably satisfied that the Applicant should be further remanded for his own safety and protection. Additionally, to admit the Applicant to bail, the Court is not satisfied that the Applicant would not commit further offences if granted bail.

[38.] The Court takes judicial notice of the notorious fact that many accused persons who are charged with murder and subsequently admitted to bail themselves become victims of murder. The Applicant, whilst previously admitted to bail and being electronically monitored for the pending offences of attempted murder (2 counts) and possession of a firearm with intent to endanger life (2 counts), now finds himself in circumstances where he is charged before the Court with the murder offence. It appears to be a graduation from the pending offences. Therefore, the risk of the Applicant being a threat to public safety and public order and the safety and protection of himself is heightened.

[39.] The Court is not satisfied that there are any effective conditions that could be imposed, at this time, to assuage its concerns regarding the Applicant's own safety and protection, the Applicant committing further offences whilst on bail, and the Applicant being a threat to public safety and public order, if he is admitted to bail. In this vein, the Court takes judicial comfort and guidance from the pronouncement of Turner JA in The Bahamas Court of Appeal decision of **Treyvar Taylor v The Director of Public Prosecutions SCCrApp No. 139 of 2024**. At paragraphs 35 and 36 of that decision, *Turner JA* pronounced –

35. The Learned Judge explained the reason (at paragraph 23) of his decision, why he considered the appellant was deemed to be a threat to public order. His reasoning was that the appellant, whilst on bail for charges of murder and attempted murder, and while being electronically monitored in relation to those offences, is alleged to have committed additional offences. Further, there is a significant risk that the appellant may fail to appear for his trial, as he has been charged for armed robbery and other serious offences of murder and attempted murder, which may possibly result in a conviction. As the Learned Judge could impose conditions to secure the appellant's attendance at trial, he indicated that no conditions could adequately protect public order, given that the appellant was already subject to wearing an EMD whilst on bail when he allegedly committed the current offence...

36. In the Court's view, in the present appeal, the appellant's alleged commission of serious offences whilst on bail and under an EMD order provides us with clear evidence that the appellant is a threat to public order and is also a relevant factor to consider pursuant to paragraph (f) of the First Schedule of the Bail Act. The combination of pending charges for violent offences and the appellant's conduct whilst on bail justifies the decision by the Judge to refuse bail and to support his continued incarceration pending trial...

39. The Learned Judge's concern for public safety was a valid concern, and we are unable to discern any error of fact or law in the decision on this issue.

[Emphasis added]

Conclusion

[40.] The Court, having regard to the foregoing reasons, and all the circumstances of the present application, makes the following orders, that –

- i. the Applicant is not a fit and proper candidate for admission to bail at this time;
- ii. the present application is hereby refused;
- iii. the Applicant is to continue his remand at The Bahamas Department of Correctional Services pending his trial and/or any date preliminary thereto;
- iv. should the Applicant's circumstances change in the interim, he is at liberty to reapply to the Court for reconsideration of admission to bail; and
- v. the Applicant's matter relative to the murder offence is adjourned to 10 December 2025 at 2:00 pm before this Court for Further Case Management.

Dated this 10th day of September 2025


GUILLIMINA ARCHER-MINNS
Justice
Supreme Court of The Bahamas