

**IN THE COMMONWEALTH OF THE BAHAMAS  
IN THE SUPREME COURT  
CRIMINAL LAW DIVISION  
2018/CRI/bail/00163**

**BETWEEN**

**PATRECO RAMSEY**

**Applicant**

**AND**

**DIRECTOR OF PUBLIC PROSECUTIONS**

**Respondent**

**Before:** The Hon. Justice Neil Brathwaite

**Appearances:** Mr. Nathan Smith for the Applicant  
Ms. Darnell Dorsett for the Respondent

**Hearing Date:** 13<sup>th</sup> March 2025

**Ruling Date:** 9<sup>th</sup> April A.D. 2025

**RULING ON BAIL**

[1.] The Applicant in this matter was charged in the Magistrate's Court on 9<sup>th</sup> November 2023 with offences of, Attempted Murder (three counts), Possession of an Unlicensed Firearm (four counts), and Possession of Ammunition (two counts). He states that he is twenty-four years of age with no children, and in his initial affidavit he claimed that he has no previous convictions or other pending matters. In a supplemental affidavit, he acknowledges a conviction for Robbery as a juvenile, as well as a conviction for Possession of Dangerous Drugs. He further alleges that he was arrested at his grandmother's residence, and not at the home of an unknown person as alleged by the prosecution. He therefore seeks to be released on bail pending trial.

[2.] In opposing the application, the Respondent filed the affidavit of Calnan Kelly, Counsel in the Office of the Director of Public Prosecutions. The documents exhibited to that

affidavit allege that the Applicant was one of several men who fired shots at a group of men in Yellow Elder Gardens on 27<sup>th</sup> October 2023. At least two persons were injured. While leaving that location, the shooters were engaged by an off-duty police officer, resulting in an exchange of gunfire. The men ran. Other responding officers saw the men running, and chased them into a house, where three suspects were arrested on the roof of the house, claiming that they had gone up there because they had heard gunshots. The actual occupants of the house denied that the men lived there. A total of three pistols, one assault rifle, and seventeen rounds of live ammunition were recovered, as well as items of clothing which are presumed to have been discarded by the fleeing men. The Respondent also urges the court to consider the fact that twenty-two persons were murdered while on bail between January 2022 and December 2022, and that between September 2017 and March 2023 a total of twelve persons were killed who were not the intended target.

[3.] In support of the application, counsel relies on the presumption of innocence, and further suggests that the evidence is not cogent, as it amounts to a tenuous circumstantial case at best. Counsel therefore submits that the case is not so strong as to induce flight, and notes that the Applicant has never breached bail in the past, and that a co-defendant has already been granted bail. It was therefore submitted that the Applicant is a fit and proper candidate for bail.

[4.] The Respondent notes that these are serious charges for which the penalty is severe, and suggests that the evidence is extremely cogent. Counsel further submits that in addition to the chase, and the eventual capture of the Applicant on a rooftop, and the discovery of the weapons, the evidence of flight is itself good circumstantial evidence of guilt. With respect to the issue of a co-defendant being on bail, the Respondent submits that this is of no moment, as the circumstances of each individual applicant must be considered. In the instant case, it is submitted that the Applicant is not a fit and proper candidate for bail.

## **LAW AND ANALYSIS**

[5.] The tensions surrounding an application for bail have been considered in many cases. In **Richard Hepburn and The Attorney General SCCr. App. No 276 of 2014**, Justice of Appeal Allen opined that:

“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 crime; and the fundamental constitutional canons, which secure freedom from arbitrary arrest and detention and serve as the bulwark against punishment before conviction.

6. Indeed, the recognition of the tension between these competing interests is reflected in the following passage from the Privy Council's decision in *Hurnam The State* [2006] LRC 370. At page 374 of the judgment Lord Bingham said *inter alia*:

"...the courts are routinely called upon to consider whether an unconvicted suspect or defendant shall be released on bail, subject to conditions, pending his trial. Such decisions very often raise questions of importance both to the individual suspect or defendant and to the community as whole. The interests of the individual is, of course, to remain at liberty unless or until he is convicted of crime sufficiently serious to deprive him of his liberty". Any loss of liberty before that time, particularly if he is acquitted or never tried, will prejudice him and, in many cases, his livelihood and his family. But the community has countervailing interests, 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 with witnesses or evidence and that he does not take advantage of the inevitable delay before trial to commit further offences..."

[6.] At paragraph 11 she further noted that

"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 interests 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."

[7.] The presumption of innocence is enshrined in Article 20(2)(a) of the Constitution of The Bahamas which states:

***"Every person who is charged with a criminal offence – (a) shall be Presumed to be innocent until he is proved or has pleaded guilty".***

[8.] Furthermore, Article 19(1) provides as follows:

**"19. (1) No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases-**  
**(a) in execution of the sentence or order of a court, whether established for The Bahamas or some other country, in respect of a criminal offence of which he has been convicted or in consequence of his unfitness to plead to a criminal charge or in execution of the order of a court on the grounds of his contempt of that court or of another court or tribunal;**  
**(b) in execution of the order of a court made in order to secure the fulfilment of any obligation imposed upon him by law;**



- (c) for the purpose of bringing him before a court in execution of the order of a court;
- (d) upon reasonable suspicion of his having committed, or of being about to commit, a criminal offence;
- (e) in the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;
- (f) for the purpose of preventing the spread of an infectious or contagious disease or in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community;
- (g) for the purpose of preventing the unlawful entry of that person into The Bahamas or for the purpose of effecting the expulsion, extradition or other lawful removal from The Bahamas of that person or the taking of proceedings relating thereto; and, without prejudice to the generality of the foregoing, a law may, for the purposes of this subparagraph, provide that a person who is not a citizen of The Bahamas may be deprived of his liberty to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within The Bahamas or prohibiting him from being within such an area.

(2)...

(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”.

[9.] The relevant provisions of the Bail Act Chapter 103 read as follows:

“4. (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 or the Court of Appeal is satisfied that the person charged

(a) has not been tried within a reasonable time;

(b)...

(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 where 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 purposes of subsection (2) (a) ...

(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 to be a reasonable time.

(2B) For the purposes 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 and antecedents of the person charged, the need to protect the safety of the 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.”

9. The factors referred to in Part A are:

“PART A

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 person;

(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) whether he is in custody in pursuance of the sentence of a Court or any authority acting under the Defence Act;

(d) whether there is sufficient information for the purpose of taking the decisions required by this Part or otherwise by this Act;

(e) whether having been released on bail in or in connection with the proceedings for the offence, he is arrested pursuant to section 12;

(f) whether having been released on bail previously, he is charged subsequently either with an offence similar to that in respect of which he was so released or with an offence which is punishable by a term of imprisonment exceeding one year;

(g) the nature and seriousness of the offence and the nature and strength of the evidence against the defendant.”;

[10.] In an application for bail pursuant to section 4(2)(c), the court is therefore required to consider the relevant factors set out in Part A of the First Schedule, as well as the provisions of section 2B.

[11.] In considering those factors, I note that the Applicant is charged with a number of serious offences, involving the use of firearms. With respect to the seriousness of the

offences, I am mindful that this is not a free-standing ground for the refusal of a bail application, yet it is an important factor that I must consider in determining whether the accused is likely to appear for trial.

- [12.] In the Court of Appeal decision of *Jonathan Armbrister v The Attorney General SCCrApp. No 45 of 2011*, it was stated that:

*“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”.*

- [13.] I note also paragraph 30 of *Jeremiah Andrews vs. The Director of Public Prosecutions SCCrApp No. 163 of 2019* where it states:

*“30. These authorities all confirm therefore that the seriousness of the offence, coupled with the strength of the evidence and the likely penalty which is 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 the consideration of other relevant factors disclosed in the evidence. eg the applicant’s resources, family connections..*

- [14.] While no direct evidence has been provided that the Applicant will not appear for his trial, the Applicant is charged with three counts of attempted murder, and other offences which, in considering the possible penalty which could follow a conviction, raises the issue of the likelihood of not appearing for trial.

- [15.] That likelihood must be contrasted with the nature of the evidence against the Applicant. In *Cordero McDonald v. The Attorney General SCCrApp. No. 195 of 2016*, Allen P., at *paragraph 34* 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."*

[16.] In considering the cogency of the evidence, I note the following statement from 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 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.] While bearing in mind that the court is not to embark on a trial of the matter on the papers, I am satisfied that there is cogent evidence to the requisite standard implicating the Applicant in the commission of these offences. In my view, the cogency of the evidence, coupled with the seriousness of the offences, raise a concern that the Applicant will not appear for his trial. I have also considered the submissions of counsel with respect to the cogency of the evidence, but consider that the question of whether the home at which the Applicant was arrested was a family home is a matter for trial, as is the suggestion that the Applicant and his co-accused had fled to the rooftop to escape any possible violence after hearing gunshots in the area.

[18.] In this case the critical issue is the risk to public safety. While the Applicant is presumed to be innocent, the court must have regard to the fact that there is cogent evidence of his involvement in these matters, which amount to the possession and use of firearms in attempting to kill others, and in an indiscriminate manner. The court must also have regard to the fact that the Applicant has on his own admission been required to pay compensation in a matter involving robbery, which encompasses both violence and dishonesty. Further, I bear in mind the number of retaliatory attacks which have occurred in this society, as well as the high incidence of firearms offences, and I am extremely concerned, given those factors and the nature of these offences, that the Applicant would become a target if he is released on bail.

## **CONCLUSION**

[19.] In considering the issue of conditions, I am mindful of the usual conditions which include reporting, electronic monitoring device (“EMD”), and curfew. In my view those conditions might suffice if the only concern was the likelihood of absconding. However, those conditions would not serve to ensure the safety of the Applicant, or to ensure the safety of the public who might be exposed to violence should any retaliatory attack occur.

[20.] In the circumstances and having regard to the foregoing reasons I find that the Applicant is not a fit and proper candidate to be admitted to bail. Bail is therefore denied.

**Dated this 9<sup>th</sup> day of April A.D., 2025**



**Neil Brathwaite  
Justice**

