

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
CRIMINAL LAW DIVISION
2025/CRI/Bal/**

BETWEEN

KHIRY DAXON

Applicant

V

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

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

Appearances: Mr. Ryszard Humes (amicus) for the Applicant

Mr. Ashton Williams for the Director of Public Prosecutions

Hearing Date: 25 November 2025

RULING ON BAIL

Williams J

[1.] The applicant Bahamian citizen is charged with one count of armed robbery.

[2.] The applicant makes his application by summons; the same is attended by affidavit. He particularly avers:

“7. I have NO pending matters before the courts in relation to any matters .

8. I have ONE prior convictions for Unlawful Escape where I served a 3 months’ sentence.

9. I am innocent of this allegation laid against me and will vigorously defend my innocence.

10. That I have no knowledge of the alleged crime that I am stand accused of.”

[3.] The applicant’s averments at 7 and 8 of his affidavit are contested by the respondent, and contradicted by Royal Bahamas Police Force Criminal Records Antecedent Form. The applicant confirmed the material particulars indicated on the form of name: Khiry Jonathan Daxon, date of birth: 27 April 1990 and address: 21 Park Forest Close. The form discloses convictions for shop breaking, stealing, trespassing, threats of death, resisting arrest, fraud by false pretences, uttering a forged document, possession of forged document, escape from lawful custody, and, perhaps in supreme irony, deceit of a public officer.

[5.] The presumption of innocence obtains.

[6.] Allen P in *Richard Hepburn v The Attorney General* SCCrApp 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 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."

[7.] In an application for bail pursuant to section 4(2)(c), the Court is required to consider the relevant factors set out in Part A.

[8.] In so considering, I note that the applicant is charged with a serious offence. I am mindful that this is not a freestanding ground for the refusal of grant of bail, yet it is an important factor that I must consider in determining whether the accused is likely to appear for trial.

[9.] In *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".

[10.] In *Jeremiah Andrews v The Director of Public Prosecutions* SCCrApp No.163 of 2019, the Court stated:

"These authorities all confirm therefore that 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 can be weakened by the consideration of other relevant factors disclosed in the evidence. e.g the applicant's resources, family connection."

[11.] While no direct evidence has been proffered to suggest that the applicant will not appear for his trial, the applicant is charged with armed robbery, the penalty for which is a lengthy term of imprisonment.

[12.] 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 the 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."

[14.] In considering the cogency of the evidence, the dicta in *Stephon Davis v DPP* is instructive:

"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 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 should allow the trial to proceed."

[15.] The prosecution relies on, in part, identification evidence.

[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.

[17.] The applicant has pending matter of assault with intent to rape.

[18.] In considering the question of bail (including conditions to be imposed, if any), the court is required to conduct a balancing exercise between the applicant's right to liberty and the need to protect the public safety and order.

[19.] Given the applicant's averments in the face his antecedent record, and that record itself, I have no confidence that the applicant would not commit offences or show for trial if granted bail. Concurrently, there is here a need to protect the public safety and order. Given these circumstances, in my view the issue of conditions does not arise.

[20.] In the premises, bail is refused



Franklyn K M Williams MB KC

Justice

8 December 2025