

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
CRIMINAL LAW DIVISION
2025/CRI/Bal/00151

BETWEEN

MICHAEL MILLER

Applicant

V

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

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

Appearances: Mr. C.A. Dorsett for the Applicant

Mrs. Janet Munnings for the Director of Public Prosecutions

Hearing Dates: 20 May 2025; 4 June 2025; 30 June 2025

RULING ON BAIL

Williams J

[1.] The applicant Bahamian citizen is charged with Conspiracy to Possess Dangerous Drugs with Intent to Supply; Possession of Dangerous Drugs with Intent to Supply; Conspiracy to Import Dangerous Drugs and Importation of Dangerous Drugs.

[2.] The applicant was granted bail in the amount of fifty thousand dollars(\$50,000).on 31 January 2022 by S and C Magistrate Samuel Mckinney, with the condition, inter alia, that he be monitored. He seeks the leave of the Court to have the Electronic Monitoring Device ("EMD") removed.

[3.] The applicant makes his application by summons; the same is attended by affidavit.

[4.] The applicant avers that he has no previous convictions, that he is innocent of the charges, that to date he has not breached any of the conditions of his bail, that he is a skilled diver and fisherman, that he requires employment in order to maintain himself and his family, that by reason of the presence of the EMD he has been refused employment as diver and fisherman; further, that upon and after immersion in water, the EMD is rendered useless and has to be replaced at the applicant's expense.

[5.] The presumption of innocence obtains.

[6.] The application is opposed by the respondent.

[7.] Upon hearing Mr. Michael Tillering, Tech Supervisor, Ms. Lashanda Smith, Monitoring Supervisor and Mr. Gregory Ifill, principal of Migrafill, the following findings are made:

- i. the device is waterproof up to 100 feet
- ii. repeated immersion in (salt) water adversely affects the components
/technology of the device
- iii. geo – fencing specifics for this applicant does not permit the applicant to be at sea more than 200 feet from shore.

[8.] The applicant is charged with a number of serious (dangerous drugs) offences. The applicant is alleged to have been the helmsman of a small craft intercepted by police marine officers in the Ragged Island Nurse Cay chain which search of yielded over one hundred packages of marijuana. The evidence is such as to raise the reasonable suspicion of the commission of the offences alleged by the applicant. There is established a prima facie case.

[9.] I take judicial notice of the recent increase of attempts to import into the Bahamas dangerous drugs, thwarted only by the heightened vigilance of the relevant authorities. I take judicial notice of the numerous killings of persons seemingly fueled by groups of persons seeking to control territory for the purpose of the distribution of dangerous drugs. No doubt consideration of the circumstances in which the applicant was found and the alleged offences committed led the Court to require the applicant to be monitored.

[10.] While no direct evidence has been proffered that the applicant will not appear for his trial, the applicant's disposition suggests otherwise. The applicant avers, inter alia, that he has no previous convictions and that he has not breached any conditions of his bail. This averment is contradicted by the applicant's criminal records antecedent form which indicates conviction for damage for which compensation was ordered, and the applicant being bound over to keep the peace for one year or serve three months' imprisonment. The applicant has also been convicted of assault with a deadly weapon against someone of whom he was also bound over to keep the peace. Given the applicant's averments in the face of his antecedent record, I have no confidence that he is as described (written) by several of his referees in support of this application "...a trustworthy and honest man...".

[11.] The applicant has been found to be in breach of bail conditions of curfew and the requirement to keep the EMD charged. According to report generated by Orion Bethell, principal of Metro Security solutions, the then monitor:

- "1. On or about 1:19 a.m. on the 10th June, 2023, the applicant was noted near Churchill Drive, Nassau, Bahamas. His battery was on 0% and it remained on 0%. This is a violation of his bail conditions;
2. On or about 6:28 a.m. on the 7th June, 2023, he was noted near Cordeaux Avenue, his battery was on 0% until 11:46 pm...where

he charged to 84%. This is a violation of his bail conditions;

3. On or about 7:46 pm on the 6th June 2023 the defendant was noted near Pinedale Street, his battery was on 0%, it remained on 0% until 11:46 pm on 7th June 2023 where he charged to 84%.

This is a violation of his bail condition.”

Given these breaches, I have no confidence that the applicant will be, as described (written) by one referee in support of this application “...compliant” with any further conditions imposed. I am concerned that inferences adverse to the applicant’s appearance for trial may be drawn herefrom.

[12.] One of the applicant’s referees, in support of this application and seeking to employ him, writes:

“He will be hired as a diver, which means diving below almost 10. to 15 ft for conch, Crawfish and deep spear fishing.”

The device is waterproof up to one hundred feet; the applicant is neither prevented from deep sea diving nor fishing.

[13.] The applicant avers:

“7. That I am seeking employment and potential employers refuse to hire me because of my ankle monitor especially around tourists.

...


11. That both of my suretors are aware of my application and supports my application to have my ankle monitor removed. Attached hereto are copies of letters from my suretors now marked Exhibit “MM-2”.

[16.] In fact, none of the letter writers refer to engaging in fishing or diving tourism and or the effect, if any of having in employ a person wearing an EMD (would have) on their businesses.

[17.] The applicant has a constitutionally guaranteed presumption of innocence. The Constitution of the Bahamas gives Parliament the authority to “make laws

for the peace, order, and good government of the Bahamas.” Parliament has decided that individuals charged with serious offences, should, as a minimum condition of the grant of bail be monitored. It is a law, in my view, for the keeping of the peace order and good government of the Bahamas. Given the particulars of this applicant’s record, the charges here faced with, **and his conduct after the grant of bail**, continued monitoring is apropos. In the premises, the application is refused.

[18.] On 30 June 2025 in an oral ruling I refused the application to vary the condition of the applicant’s bail that is that he should cease be electronically monitored. I promised to put my reasons in writing; I do so now.


Franklyn K M Williams MB KC

Justice

23 December 2025