

**COMMONWEALTH OF THE BAHAMAS  
IN THE SUPREME COURT  
CRIMINAL DIVISION  
2026/CRI/BAL/00028**

**BETWEEN**

**PAUL FRANCOIS**

**Applicant**

**AND**

**DIRECTOR OF PUBLIC PROSECUTIONS**

**Respondent**

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

**Appearances: Mrs. Shaneka Carey for the Director of Public Prosecutions  
Defendant Pro se**

**Hearing Dates: 12<sup>th</sup> March 2026.**

**RULING – BAIL DECISION**

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

**WEECH-GOMEZ, J.**

## **Introduction:**

1. The Applicant is 27-year-old Bahamian male who is charged before the Court with on One count (1) of **Unlawful Sexual Intercourse contrary to Section 11 (1) of the Sexual Offences Act, Chapter 99.**
2. The Application was made by way of the Kiosk at Bahamas Department of Corrections and dated the 22<sup>nd</sup> day of January 2026
3. The Respondent filed an Affidavit sworn by Jacklyn Conyers on the 2<sup>nd</sup> day of March 2026 objecting to the said application.
4. The Application in support of his application submitted the following:
  - a) That he was innocent of the offense for which he has been charged
  - b) That he has no knowledge of the complainant or of her age
  - c) That he currently assists his sister in caring for the financial medical offences who is currently receiving treatment for cancer.
  - d) That prior to him being charged and held on remand for this offence he was employed as a helper for Wong's Home Centre.
  - e) That he has resided in Kemp Road all his left and that he has no intention if granted bail to abscond or not return for trial.
5. The Respondent relied on its aforesaid Affidavit and sought to amend the nationality of the Applicant upon proof of the same being tendered to the court.
6. They maintained that notwithstanding the same the Applicant ought not to be granted bail because of:
  - a) the serious nature of the offense.

- b) The cogency of the evidence raises a reasonable suspicion that the Applicant has committed the offence so as to justify his deprivation of liberty.
7. That there has been no unreasonable delay.

## Law

[7.] The Applicant is presumed to be innocent of all charges unless and until he has been convicted. By virtue of **Article 20(2)(a)** of The Constitution of The Bahamas:

**“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.”**

[8.] **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.”**

[10.] The factors the Court must take into account when considering the grant of bail is set out in **Part A** of the First Schedule to the **Bail Act**, which provides as follows:

**“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 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.**  
(Emphasis added)

[11.] The Court's role during a bail hearing is not to conduct a mini-trial. In the case of **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.”**

[12.] The nature and seriousness of an offence was also considered in **Hurnam v The State [2006] 3 LRC 370** at 374 and applied in **Stephon Davis v The Director of Public Prosecutions SCCrApp No. 108 of 2021** which states as follows:-

**“16. Lord Bingham of Cornhill stated, inter alia, at paragraph 15 of Hurnam v The State (Mauritius) [2005] UKPC 49, as follows:**

**“[15] It is obvious that a person charged with a serious offence, facing a severe penalty if convicted, may well have a powerful incentive to abscond or interfere with witnesses likely to give evidence against him, and this risk will often be particularly great in drug cases. Where there are reasonable grounds to infer that the grant of bail may lead to such a result, which cannot be effectively eliminated by the imposition of appropriate conditions, they will afford good grounds for refusing bail.”**

[13.] During a bail application, the judge is not expected to weigh up the evidence to be adduced at trial. In **Cordero McDonald v The Director of Public Prosecution SCCrApp No. 121 of 2023**. The Court of Appeal held at paragraph 16 stated:

**“34. As this Court has said on many occasions, 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.”**

8. I have considered the submissions the Bail Act and Case Law with respect to this Application and particular regard has been paid to *Cordero McDonald v The DPP*. SCCrApp No. 121 of 2023 as directed by the Respondent in their submissions.
9. I note that whilst the Applicant has antecedents they were or are not of the same or similar nature as this offense and he has served his time for his past criminal acts.
10. I must also have regard to the fact that our constitution provides that the Defendant is innocent unless and until he is proven guilty.
11. The Applicant is the father of a daughter and a newborn son.
12. I am not persuaded that there are no conditions that the court can impose that will diminish the risk of the Applicant absconding,
13. Having regard to all the circumstances, the Court is prepared to exercise its discretion and grant the Applicant bail with the following conditions:
  - a) Bail is granted to the Applicant in the sum of \$ 15,000,00 with 2 suretors
  - b) The Applicant is to sign in at Wulf Road Police Station every Monday and Friday before 7 p.m.
  - c) The Applicant nor his agents are to have any contact with the complainant or witnesses listed on the Magistrate's Court docket.
  - d) The Applicant is not to go within 100 feet of the virtual complaint and or her residence.
  - e) The Applicant is to relinquish his passport and any other travel documents to the Criminal Registry until the completion of his trial or further ordered.

**Dated March 2026**

**The Honorable Madam Justice Jeanine Weech-Gomez**