

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Criminal Division

CRI/BAL/00180/2025

BETWEEN

BRANDON NEYMOUR

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Honourable Justice Darron Ellis

Appearances: Donna Major for the Applicant

Timothy Bailey for the Respondent

Hearing Date: February 26, 2026

Ruling Date: April 28, 2026

Bail Act-Application for Bail-Section 3 Offences-Part A First Schedule-Primary Considerations on a Bail Application-Whether there has been unreasonable delay-Whether the Applicant is a fit and proper candidate for bail-Whether the Applicant will abscond-Nature and strength of the evidence against the Applicant-Serious sexual offence-Antecedents-Pending firearm matter-Risk of non-attendance-Risk of further offending.

RULING ON BAIL

- [1.] The Applicant, Brandon Neymour, applies for bail in respect of a charge of unlawful sexual intercourse contrary to Section 11 (1) (a) of the Sexual Offences Act, Chapter 99.
- [2.] The application was made by summons filed on 16 December 2025 and is supported by affidavit evidence sworn by the Applicant. The Applicant has pleaded not guilty and maintains his innocence. He says that he is a fit and proper person for bail and that, if admitted to bail, he will comply with any conditions imposed by the Court.
- [3.] The Respondent opposes the application and relies on the affidavit of Tennielle Bain, counsel and attorney in the office of the Director of Public Prosecutions.
- [4.] The Applicant states that he resides at #30 Turnquest Avenue in the Western District of New Providence, that he is a Bahamian citizen, and that he was born on 20 September 1999. He says that he was arraigned on 17 November 2025 in Magistrate Court No. 4 on the present charge. The exhibited docket identifies the complainant and records particulars alleging unlawful sexual intercourse with a female aged 15 years at New Providence in November 2025.
- [5.] In his affidavit, the Applicant denies the charge, says that he is not guilty as charged, and asserts that he is “a victim of a setup”. He further alleges that there appears to be a group of persons intentionally setting up young men and attempting to extort money from them. He also acknowledges another matter concerning possession of an unlicensed firearm and ammunition, and says that he was committed to bail in that matter.
- [6.] On 5 February 2026, the Respondent filed its Affidavit in response to the bail application. The Respondent contends that the evidence against the Applicant is cogent and compelling and that the allegation is a serious one. The Respondent summarises the complainant’s complaint as one in which she fell asleep in a bedroom on the night in question and awoke to find the Applicant on top of her, pulling down her pants, restraining her, and having vaginal sex with her without her permission.
- [7.] The Respondent also relies on the statement of Detective Sergeant Carlos Ingraham concerning a confrontation held on 11 November 2025, in which the complainant maintained her complaint and identified the Applicant. The Applicant is also recorded as saying that sexual intercourse occurred while asserting that the complainant initiated it.
- [8.] The Respondent further relies on the Applicant’s criminal antecedents as set out in the affidavit material and antecedent form, and on the fact that at the time of the present allegation, the Applicant is said to have been on bail in relation to a firearm and ammunition matter. On that basis, the Respondent contends that there is a real risk of further offending if bail is granted, and also raises concerns as to witness safety, public safety, and public order.

[9.] In the Respondent's affidavit, the Criminal Records Antecedent Form of the Applicant, records prior convictions for stealing, attempted stealing, violation of curfew, threats of death and assault with a dangerous instrument.

Submissions

[10.] Counsel for the Applicant submits that the Applicant is a fit and proper candidate for bail, that he is a young man with his future before him, and that the Court should take account of his age and prospects. Counsel also relies on the presumption of innocence and submits that there is no evidence that the Applicant would fail to surrender, interfere with witnesses, or otherwise obstruct the course of justice.

[11.] Counsel for the Applicant emphasises that the Applicant is not charged with the offence of rape, but rather with the lesser offence of unlawful sexual intercourse, which, it is suggested, ought to inform the Court's assessment of both the seriousness of the charge and the appropriate exercise of its discretion.

[12.] In relation to the pending and separate charge of possession of an unlicensed firearm and ammunition, Counsel did not advance any substantive submissions beyond invoking the presumption of innocence. Counsel maintains that the Applicant is to be regarded as innocent unless and until proven guilty, and that this principle should weigh in favour of granting bail.

[13.] Counsel further submits that the Applicant is willing to abide by any conditions the Court may see fit to impose and reiterates that there is no evidence to suggest that he would fail to surrender to custody, interfere with witnesses, or otherwise obstruct the course of justice. On that basis, Counsel urges the Court to admit the Applicant to bail on reasonable terms, with such conditions as may be necessary to secure his attendance and ensure compliance.

[14.] Counsel for the Respondent argues that the Applicant is not a fit and proper person for bail. The Respondent highlights that, at the time of the present allegations, the Applicant was already on bail for the firearm and ammunition matter. On that basis, together with the nature of the present allegation, the Respondent contends that there is a real risk of the Applicant further offending if bail is granted.

[15.] The Respondent contends that the nature and circumstances of the evidence give rise to a need to protect the safety of the witnesses, that there is nothing peculiar in the Applicant's circumstances to render continued detention unjustified, and that the Applicant is not a fit and proper candidate for bail at this time.

[16.] With respect to the Applicant's antecedents, the Respondent submits that the Applicant has several previous convictions. Reliance is placed on section 4 of the

Rehabilitation of Offenders Act, which, it is submitted, permits the Court to take into account all prior convictions in criminal proceedings. The Crown contends that the Applicant's convictions are not spent and are therefore properly admissible and relevant to the present application. These include convictions for attempted stealing, stealing, breach of curfew, threats of death and assault with a dangerous instrument.

[17.] Counsel for the Respondent further submits that there has been no unreasonable delay in the prosecution of this matter. The offences are alleged to have occurred in or about November 2025, and the Applicant has been in custody for approximately four months. It is therefore contended that the period of pre-trial detention is neither excessive nor unjustified.

[18.] Finally, Counsel argued that the Applicant has demonstrated a pattern of repeated offending, with an apparent escalation in the seriousness of the offences. It is argued that the present charge, when considered alongside the pending firearm and ammunition matter, exposes the Applicant to the prospect of a lengthy custodial sentence. This, the Crown submits, significantly increases the risk of absconding.

[19.] In the circumstances, it is contended that there are no conditions which the Court could impose that would sufficiently mitigate that risk or adequately safeguard the public. Accordingly, the Crown submits that the Applicant is not a suitable candidate for bail at this time. The Court is accordingly invited to refuse the bail application.

LAW & ANALYSIS

[20.] The governing principles are not in dispute. In determining this application, the Court must apply section 3 of the Bail Act and Part A of the First Schedule of the Bail Act, while recognising the constitutional presumption of innocence and the right to personal liberty. The Court must consider, among other things, whether there are substantial grounds for believing that, if released on bail, the Applicant would fail to surrender to custody, commit an offence while on bail, or interfere with witnesses or otherwise obstruct the course of justice. The Court must also consider the nature and seriousness of the offence and the nature and strength of the evidence against the Applicant, while ensuring the protection of the public and, where appropriate, the safety of any victims.

[21.] The Applicant is considered innocent of the charges until proven guilty. Specifically, **Article 20(2)(a) of The Bahamas Constitution** 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”.**

[22.] **Article 19(1)(d)** further states that no one shall be deprived of personal liberty except upon reasonable suspicion of his having committed or of being about to commit a criminal offence.

[23.] The **First Schedule Part A of the Bail Act** outlines the relevant factors that the Court must consider in an application for bail, which provides: -

“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.”

[24.] The Court recognises that the Crown has an evidential burden to produce material capable of supporting a belief that, if released on bail, the Applicant would fail to surrender, commit further offences, or interfere with witnesses or obstruct the course of justice. Bare assertions are insufficient. In the Court of Appeal decision in **Jevon Seymour v Director of Public Prosecutions**, SCCrApp.No. 115 of 2019, the Court determined whether the judge at first instance made a proper ruling in denying the applicant bail. At paragraph 65, Crane-Scott, J.A. expressed that: -

“...Paragraph (a) of the First Schedule to the Bail Act places an evidential burden on the crown to adduce evidence (i.e. substantial grounds) which is capable of supporting a belief that the applicant for bail “would” if released on bail, fail to surrender to custody or appear at his trial; commit an offence while on bail; or interfere with witnesses or otherwise obstruct the course of justice. The Crown's burden is only discharged by the production of such evidence.”

[25.] Evans J.A. in **Jeremiah Andrews v The Director of Public Prosecutions** at **paragraph 26** Appeal SCCrApp No. 163 of 2019 stated that: -

“In order to properly assist the Court, parties are required to provide evidence which will allow the Court to determine whether the factors set out in Part A of the First Schedule to the Bail Act s 4 (2B) exist. We note that all too often the affidavits supplied by the Crown make bare assertions that there is a belief that if the Applicant is granted bail he will not appear for trial; will interfere with witnesses or will commit other crimes. These assertions are meaningless unless supported by some evidence.”

[26.] In **Hurnam v. State of Mauritius** [2006] 1 WLR 857 at paragraph 15, the Court’s approach to bail was: -

“15. It is obvious that a person charged with a serious offence, facing a serious 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 drugs 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...The seriousness of the offence and the severity of the penalty likely to be imposed on conviction may well...provide grounds for refusing bail, but they do not do so of themselves, without more: they are factors relevant to the judgment whether in all the circumstances, it is necessary to deprive the applicant of his liberty. Whether or not that is the conclusion reached, clear and explicit reasons should be given...”

[27.] The Court is also required to consider whether the identified risks can be adequately addressed by imposing bail conditions.

[28.] The Court also considers that the Applicant is entitled to a trial within a reasonable time. In this regard, Article 19(3) of The Constitution of The Bahamas states:

“19(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 reasonable necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.”

[29.] Furthermore, section 4(2)(A)(a) of the **Bail Act** states:

“2(A) 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.”

[30.] The Court further recognises that the three-year period referred to in section 4(2A)(a) is not a blanket entitlement to detain an accused for three years. As per the reasoning in **Duran Neely v The Attorney General** SCCrApp. No. 29 of 2018, where Evans JA at paragraph 17 stated:

“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 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. As I understand the law when an accused person makes an application for bail the Court must consider the matters set out in Section 4(2)(a), (b) and (c). This means that if the evidence shows that the accused has not been tried within a reasonable time or cannot be tried in a reasonable time he can be admitted to bail as per (a) and (b). In those circumstances where there has not been unreasonable delay the Court must consider the matters set out in (c). If after a consideration of those matters the Court is of the view that bail should be granted the accused may be granted bail.”

[31.] The Court therefore considers whether there has been such an unreasonable delay as to warrant the Applicant being admitted to bail on the basis that his fair trial rights are in jeopardy. The offence for which the Applicant is before this Court is alleged to have occurred sometime on 7 or 8 November 2025, and the Applicant was arraigned on 17 November 2025. Accordingly, the Applicant has been in custody for less than six months.

[32.] I have carefully considered the affidavit evidence, the submissions of Counsel on both sides, and the applicable principles governing the grant of bail.

[33.] I begin with the presumption of innocence, which weighs in favour of the Applicant. I also take into account the Applicant’s age, as urged by Counsel, and the submission that he has his future ahead of him. However, these factors, while relevant, are not determinative.

[34.] I deal with the delay first. I am not satisfied that there has been any unreasonable delay in the prosecution of this matter. On the record before the Court, the allegation arose in November 2025, the Applicant was arraigned on 17 November 2025, and he has been in custody for less than six months. The period of detention is not of such duration as to constitute unreasonable delay. Further, there is no evidence before me that the matter cannot proceed within a reasonable time.

[35.] The Court must next consider the nature and seriousness of the present charge and the pending firearm and ammunition matter. The present charge, coupled with the pending

charge of possession of an unlicensed firearm and ammunition, is undoubtedly serious. Firearm and sexually related offences, in particular, are of grave concern in this jurisdiction and carry significant custodial penalties. The potential sentence upon conviction is therefore a material factor in assessing the risk of absconding.

[36.] 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 12, 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.”

[37.] In accordance with the guidance in **Jonathan Armbrister v A.G.**, the Court makes no finding on guilt at this interlocutory stage. However, the Court is entitled to have regard to the apparent strength of the evidence disclosed by the affidavit material. Having regard to the evidence summarised in the affidavits, I am not persuaded that the Crown’s case can fairly be described as weak.

[38.] Of particular significance are the Applicant’s antecedents. The material before the Court discloses previous convictions, including offences of dishonesty and violence. The Court also takes into account the pending firearm and ammunition matter.

[39.] Further, the Court notes that the Applicant was on bail at the time material to these proceedings. This is a weighty factor. It undermines confidence that bail conditions would adequately address the risk of further offending or secure compliance with the Court’s order.

[40.] The antecedent record and the existence of the pending firearm matter raise legitimate concerns as to the risk of further offending if the Applicant were released.

[41.] The critical question is whether the risks identified—particularly the risk of further offending—can be adequately mitigated by imposing conditions.

[42.] Having considered the totality of the circumstances, I am not satisfied that any combination of conditions, whether as to reporting, sureties, or otherwise, would sufficiently address those risks. The need to ensure the Applicant’s attendance at trial and

to preserve public safety and public order outweighs, in the circumstances of this case, the Applicant's right to liberty pending trial. The Applicant's antecedents, the fact that he was previously on bail, and the seriousness of the present and pending charges collectively lead to that conclusion.

[43.] I am satisfied that there is a real and substantial risk that, if admitted to bail, the Applicant may fail to surrender to custody or attend for trial, and/or may commit a further offence while on bail.

[44.] I am also satisfied, in the circumstances, that conditions cannot adequately mitigate those risks.

[45.] On the material before the Court, the Respondent has discharged the evidential burden under paragraph (a)(i) and (ii) of Part A of the First Schedule. I also have regard to paragraphs (f) and (g) of that Schedule.

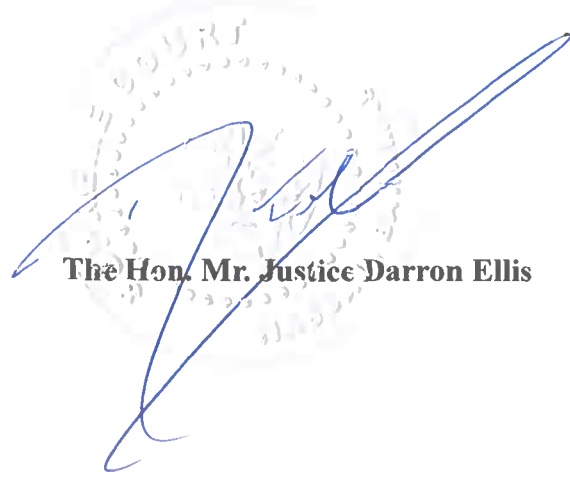
[46.] In all the circumstances, I am satisfied that the Applicant's release on bail would pose an unacceptable risk to public safety.

[47.] Accordingly, having applied the statutory considerations under the Bail Act and having regard to all the circumstances of the case, I find that the Applicant is not a fit and proper candidate for bail at this time. The application is therefore refused.

[48.] The Applicant is denied bail for the following reasons.

- i. I am not satisfied that there has been any unreasonable delay.
- ii. The Applicant's antecedents weigh against the grant of bail and are relevant considerations under Part A of the First Schedule.
- iii. Having regard to the seriousness of the present charge, the evidence summarised in the affidavits, and the pending firearm and ammunition matter, I am satisfied that there is a real risk that the Applicant may fail to surrender if released and/or commit an offence while on bail.
- iv. I am further satisfied that the release of the Applicant would give rise to public safety concerns which bail conditions cannot adequately address.

Dated 28th April A.D. 2026

A handwritten signature in blue ink is written over a faint, circular official stamp. The signature is stylized and appears to be 'D. Ellis'. The stamp is mostly illegible but seems to contain some text around its perimeter.

The Hon. Mr. Justice Darron Ellis