

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Criminal Division

CRI/BAL/00491/2020

BETWEEN

JOHN SANDS

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Honourable Justice Darron Ellis

Appearances: Tamika Roberts for the Applicant

Timothy Bailey for the Respondent

Hearing Date: February 26, 2026

Ruling Date: May 5, 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 firearm and ammunition offence-Antecedents-Pending armed robbery/ firearm matter-Risk of non-attendance-Risk of further offending.

RULING ON BAIL

- [1.] The Applicant, John Sands, applies for bail in respect of a charge of Possession of an Unlicensed Firearm contrary to Section 5(B) of the Firearms Act Chapter 213 and Possession of Ammunition contrary to Section 9 (2) A of the Firearms Act Chapter 213.
- [2.] The application was made by summons filed on 6 February 2026 and is supported by affidavit evidence sworn by the Applicant on the same day. 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 Brent McNeil, Assistant Counsel and attorney in the office of the Director of Public Prosecutions.
- [4.] The Applicant states that he resides at #33 Cambridge Drive, New Providence; that he is a Bahamian citizen; and that he was born on 28 January 1999. He says that he was arraigned on 28 April 2025 in Magistrate Court No. 15 on the present charge. The exhibited docket identifies the complainant and records particulars alleging that the Applicant was found by the Police in possession of an unlicensed firearm and ammunition on 24 April 2025.
- [5.] In his affidavit, the Applicant denies the charges and states that he is not guilty. He further requests that he be admitted to bail pending his trial, as he will be disadvantaged in his ability to prepare his defence adequately and to support himself and his family if he remains incarcerated.
- [6.] On 20 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 allegations are serious. The Respondent summarises the complaint as one in which the Defendant was driving a blue Honda Accord and was subsequently stopped by the police. Upon searching the vehicle, a black .40 Glock 27 pistol, loaded with 9 rounds, was discovered in the glove compartment. The Applicant was arrested along with his passenger.
- [7.] The Respondent also relies on the arresting officers' report and the Report of Firearms Expert, which state that the pistol recovered from the Applicant's vehicle was tested alongside the ammunition and that both were found to be capable of functioning properly.
- [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 2 charges of armed robbery and receiving. On that basis, the Respondent contends that there is a real risk of further offending if bail is granted, and also raises concerns about 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, possession of forged currency (2), and deceit of a public officer.

Submissions

[10.] Counsel for the Applicant submits that the Applicant is a fit and proper candidate for bail, that he is a young man in his prime with a family to support, and that the Court should take into account his age and prospects.

[11.] Counsel further argues that the Applicant's incarceration has left him impecunious and unable to provide for his family. 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. Further, it was argued that the present offence is less serious than armed robbery, rape and murder.

[12.] In relation to the pending and separate charges of 2 counts of armed robbery and receiving, Counsel argued that the Applicant is innocent until proven guilty, and that this principle should weigh in favour of granting bail.

[13.] Counsel further submits that the Applicant is willing to comply with any conditions the Court may consider appropriate and reiterates that there is no evidence 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, in its Affidavit evidence, highlights that, at the time of the present allegations, the Applicant was already on bail for multiple armed robberies and receiving charges. And yet he is arrested again with a firearm. On that basis, together with the nature of the present allegation, the Respondent contends that there is a real risk that the Applicant will not attend Court or will further offend if bail is granted.

[15.] The Respondent contends that the nature and circumstances of the evidence require the protection of the public, that there is nothing unusual about 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 prior 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 admissible and relevant to the present application.

[17.] Counsel for the Respondent further submits that there has been no unreasonable delay in prosecuting this matter. The offences are alleged to have occurred on or about 24 April 2025, and the Applicant has been in custody for approximately twelve 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 was further argued that, when considered alongside the pending armed robbery matters, the present charges expose 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 no conditions the Court could impose would sufficiently mitigate the risks 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 seriousness of the offence is not, of itself, determinative, but it is a relevant factor in assessing the likelihood of absconding and the adequacy of bail conditions.

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

[29.] 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.”

[30.] 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.”

[31.] 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.”

[32.] 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 24 April 2025, and the Applicant was arraigned on 28 April 2025. Accordingly, the Applicant has been in custody for one year.

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

[34.] 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.

[35.] I address delay first. There is no evidence of prosecutorial inertia, systemic delay, or any factor suggesting that the Applicant’s continued detention is unjustified on constitutional grounds. 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 on 24 April

2025. The Applicant was arraigned on 28 April 2025, and he has been in custody for about a year. 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.

[36.] The Court must next consider the nature and seriousness of the present charge and the pending matter. The present charge, coupled with the pending charges of armed robbery and receiving, is undoubtedly serious. Firearm and armed robbery 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.

[37.] 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.”

[38.] 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, including the allegation that the firearm and ammunition were recovered from the glove compartment of the vehicle the Applicant was driving, and the firearms expert evidence that the pistol and ammunition were capable of functioning properly, I am not persuaded that the Crown’s case can fairly be described as weak.

[39.] Of particular significance are the Applicant’s antecedents. The material before the Court discloses previous convictions, including offences of dishonesty. The Court also takes into account the pending matters.

[40.] Further, the Court notes that the Applicant was on bail at the time material to these proceedings, when the offence was alleged to have been committed. This is a weighty

factor. It undermines confidence that bail conditions would adequately address the risk of further offending or ensure compliance with the Court's order.

[41.] In my judgment, the Crown has discharged its evidential burden, not by bare assertion, but by reliance on specific matters, namely: (i) the recovery of a loaded firearm from the vehicle driven by the Applicant; (ii) the expert confirmation of functionality; and (iii) the fact that the Applicant was on bail for serious offences at the time of the alleged commission of the present offence. These matters, taken together, constitute substantial grounds within the meaning of the First Schedule.

[42.] The antecedent record and the existence of the pending charges raise legitimate concerns about the risk of further offending if the Applicant were released.

[43.] The critical question is whether conditions can mitigate the identified risks. In my judgment, they cannot. The fact that the Applicant is alleged to have committed the present offence whilst already on bail significantly undermines confidence in the efficacy of any conditions.

[44.] I am satisfied that there is a real risk that the Applicant may commit further offences if released on bail. I am also satisfied, having regard to the seriousness of the charges and the potential custodial sentence, that there exists a real risk that the Applicant may fail to surrender to custody.

[45.] I am not satisfied that any combination of conditions—whether reporting requirements, sureties, or otherwise—would adequately mitigate those risks.

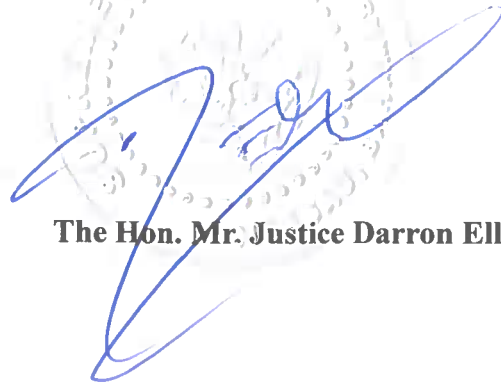
[46.] I therefore find that the Crown has discharged the evidential burden under paragraphs (a)(i) and (ii) of Part A of the First Schedule. I also have regard to paragraphs (f) and (g).

[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 refusal is grounded on the following:

- (i) No unreasonable delay has been established;
- (ii) The Applicant's antecedents weigh against the grant of bail;
- (iii) There exists a real risk of further offending and failure to surrender;
- (iv) Bail conditions would not adequately mitigate those risks.

Dated 5th May A.D. 2026

A handwritten signature in blue ink is written over a circular official seal. The signature is stylized and appears to be 'D. Ellis'. The seal is faint and contains some illegible text and a central emblem.

The Hon. Mr. Justice Darron Ellis

