

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Criminal Division
2015/CRI/BAL/00044

BETWEEN:
DEVON DEON LAING

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before:	The Hon. Mr. Justice Loren Klein
Appearances:	Stanley Rolle for the Applicant Basil Cumberbatch with Danielle Capron for the Respondent
Hearing Date:	7 April 2026
Ruling:	Oral Ruling 14 April; Written reasons 20 April 2026

RULING (BAIL)

KLEIN, J.

Bail—Bail Act—Part C Offences—Attempted murder and possession of firearms with intent to endanger life—In-court statement by Counsel for applicant that he was approached by virtual complainant indicating his wish to withdraw—Whether matter the court can take into consideration—Witness intimidation—Antecedents—Delay

INTRODUCTION AND BACKGROUND

1. This is an application for bail under section 4 of the Bail Act (“the Act”) by a 30-year old male charged with one count of attempted murder. That charge stems from allegations relating to an incident that occurred in May 2024, but for which he was arraigned in the Magistrate’s Court in June 2025 following his deportation from Canada, where he apparently fled after the incident.

2. This application was commenced electronically on 25 February 2026. The applicant appeared before the Court pro se on 24 and 30 March 2026 on his application, but the matter was adjourned to 7 April 2026 to allow him to place before the Court affidavit material which he said supported his bail application. On that date, he was assisted in his bail application by his trial attorney, Stanley Rolle, of the Office of the Public Defender.

3. The Office of the Director of Public Prosecutions (“DPP”) filed an affidavit opposing bail on 26 March 2026, which included an earlier affidavit filed October 2025, and which was relied on to resist an earlier bail application. The application was denied by Brathwaite J. on 24 November, 2025.

Brief factual background

4. The allegations underlying the applicant's arrest and detention are that on Saturday, 4 May 2024, during the early morning hours, the applicant shot off multiple rounds inside "Ryan's Bar", also known as "Playhouse Bar & Lounge", located on Nassau St. The bar was crowded with patrons at the time. It is alleged that the applicant was involved in an altercation with a female and male inside the club, during which he pulled a gun from his waistband and fired several shots in their direction. One of the rounds hit and injured a female by the name of Doril Priscilla Sturup.

Material in support of bail

5. The applicant relies on an affidavit he filed on 30 June 2025 in the 2025 application, but in addition relies on the 3 February 2026 affidavit of Doril Priscilla Sturup. In the earlier affidavit, he indicates that he is 30 years' old, works as an electrical supervisor at South West Electric Motors, and that he is the father of two girls, one six months old at the time and the other three years old. He admits to one prior conviction in 2015 for armed robbery, but indicates that he was released in 2020. In that affidavit, he asserts that the complainant is "*either lying or mistaken in the identification*" of him. He also indicates that he is willing to comply with any conditions the court may set, including surrendering his passport.

6. In her affidavit. Ms. Sturup submits that she mistakenly identified and wrongfully accused the applicant. She also states that she wishes to withdraw her statement against the applicant. The salient points of Ms. Sturup's affidavit may be found in paragraphs 1, 3, 4 and 5, as follows:

"1. That I am withdrawing my statement against DEVON DEON LAING, age 30, born on August 5th, 1995.

3. That it was a mistake in identity when I identified him in a line-up.

4. That he was wrongfully accused by me.

5. The purpose of this Affidavit is to advise that DEVON DEON LAING wrongfully (*sic*) accused by me."

7. The DPP's affidavit makes the main point that the applicant should be refused bail on the ground that he constitutes a significant flight risk, having previously fled to Canada. This is what is said at paras. 8, 10 and 11:

"8. [...] That after the attempted murder, the applicant fled to Canada where he was subsequently arrested for gang activity and deported to The Bahamas.

[...]

10. [...] There are no conditions that the Court can impose that would ensure that the Applicant would not flee this jurisdiction like he has done before. That a monitoring device is only a tracking device that can readily be removed.

11. That we make this affidavit in opposition to the Application for bail on the following grounds. There are substantial grounds for believing that the Applicant if released on bail, whether subject to conditions or not, may fail to surrender to custody or fail to adhere to his bail conditions. We also rely on the previous bail decision of Justice Neil Brathwaite.”

Parties’ Submissions in brief

8. Mr. Rolle makes three central submissions on behalf of the applicant. The first is that the main evidence connecting the applicant to the allegations is seriously weakened, if not undermined, by the recantation. Next, it is said that the prosecution has not put before the Court any substantial grounds justifying the belief that the applicant will either offend again or abscond. In this regard, it is submitted that the prosecution’s reliance on the fact that the applicant was arrested and deported from Canada, and there were suspicions that he may have been aligned with a gang known as the “Dirty South”, was only conjecture. Of the 172 charges relating to drugs and firearms levied against the gang in the Canadian proceedings, none of these charges related to the applicant.

9. Further, it was admitted that the applicant had a prior conviction for armed robbery in 2015, but counsel for the applicant stressed that he had served his time for that offence and had not re-offended since then. Additionally, it was submitted that the deportation from Canada does not make the applicant an automatic flight risk, as he has strong family and employment ties to the community.

10. Lastly, on his behalf, it was said that his remand constitutes pre-trial punishment and was in violation of several constitutional rights, including the presumption of innocence and the right to be provided with “adequate time and facilities for the preparation of his defence” (Art. 20(1)(c)). In this regard, it was indicated that the court is well aware of many accused who have had to make requests of the court for simple amenities such as writing items and pads, because they do not have access to these things while incarcerated.

11. In response, the DDP made two main points. First, it was submitted that any issue relating to recantation or inconsistency in any evidence was a matter for the jury, relying on the Court of Appeal case of **Stephon Davis**. Secondly, it was submitted that, considering that the applicant fled to Canada at some point after 4 May 2024, when the offence was allegedly committed, and was deported from Canada in November of 2024, this makes him a clear flight risk. Finally, it was submitted that the applicant was refused bail in November of 2025, based on the same grounds on which this application is argued (with the exception of the recantation evidence), which the prosecution says does not constitute any material change in circumstances.

ANALYSIS AND DISCUSSION

Law and Legal Principles

12. In **Samuel Meadows v DPP** (2024/CRI/Bal/00041), 17 March 2026, I summarized the statutory provisions and legal principles relative to the consideration of bail in eight propositions. Reference can be made to that case for a full statement of those principles. I will only provide a bird's-eye-view here.

- (i) Bail engages the constitutional right to personal liberty and is underpinned by the presumption of innocence (**Hurnam v The State** [2006] 3 LRC 370, **Richard Hepburn v The Attorney General**, SCCrApp276 of 2014).
- (ii) Bail is granted on a discretionary basis under the Bail Act, and the applicable considerations differ depending on whether the offence is listed in Part B, Part C, or Part D of the First Schedule. For Part B offences, the Act provides that an accused “*shall*” be detained unless the court is satisfied that detention is not justified; and an accused is ineligible for bail if he served time within the preceding 5 years for conviction of another Part B offence. For Part C offences, the language of the statute is that the accused “*shall not be granted bail*” unless specified exceptions apply, including (a) where the person has not been tried in a reasonable time (presumptively 3 years) or (b) qualifies under the general Part A factors and the special factors in s. 2B. The “primary considerations” for a Part C determination are: (i) character or antecedents of the person charged; (ii) the need to protect public order or safety; and (iii) the need to protect victims (where appropriate). Part D offences are dealt with under the general discretion in section 3. The court’s primary inquiry under Part A is whether there are substantial grounds for believing that, if released, the defendant would fail to surrender, commit an offence while on bail, or interfere with witnesses or otherwise obstruct the course of justice. Other relevant statutory factors include the defendant’s protection or welfare, prior absconding or breach of bail, offending while on bail, the nature and seriousness of the offence, the strength of the evidence, and the need to protect the alleged victim from further violence.
- (iii) Bail is not to be withheld as punishment before trial; the proper test is the likelihood of whether or not the defendant will surrender for trial, although that is not the only consideration (**Johnathan Armbrister v The Attorney-General** SCCrApp. No. 276 of 2014; **Hurnam**).
- (iv) Bail applications require the court to balance the accused’s fundamental right to liberty against the countervailing interest of public safety (**Richard Hepburn; Hurnam**).
- (v) Although s. 4(6) places a burden on the applicant to satisfy the court that bail should be granted, a stream of authorities state that this does not shift the burden from the Crown to justify why bail should not be granted (**Vasyli v The Attorney General** [2015] 1 BHS J, No. 86; **Jevon Seymour v DPP**, No. 115 of 2019; **Hurnam**).
- (vi) A bail application does not require the court to decide disputed facts or conduct a forensic examination of the evidence. The material before the court need only raise a reasonable

suspicion or a *prima facie* case that the applicant committed the offence, sufficient to justify deprivation of liberty (**Cordero McDonald v The Attorney General**, SCCrApp No. 195 of 2016, **Stephon Davis v DPP**, SCCrApp. No. 20 of 2023, **Damargio Whyms v DPP**, SCCrApp. No. 148 of 2019).

- (vii) There are no numerical restrictions on successive bail applications; each application must be considered on its merits. On a renewed hearing, the court must consider previous findings and whether there is any new material relevant to bail, and it retains the power to protect its process from abuse (**Darmagio Whyms; Richard Hepburn v The Attorney General** (No.2), SCCrim App & CAIS No. 135 of 2016; **Mackey and anor. v R** [2016] 2 BHS J No. 132).

- (vii) On a bail application, the court may consider material or “evidence” that would not normally be admissible at trial, including hearsay evidence and informal sources (**Alcott Fox v DPP**, SCCrApp. No. 119 of 2023, and **Attorney-General v Bradley Ferguson et. al.**, SCCrApp. Nos. 57, 106, 116 of 2008).

Court’s Application of Principles to current application

13. I have given careful consideration to the submissions of counsel and the affidavit evidence in support of and opposing bail, as well as the statutory factors and the legal principles which govern the grant of bail for a person charged with Part C offences under the Bail Act. In particular, the Court has taken into account the nature and seriousness of the allegation against the applicant, namely an allegation of attempted murder with a firearm, the apparent strength of the evidence as presently outlined (which includes eyewitness evidence), the antecedents, community ties, record of compliance with previous bail, and all other circumstances appearing relevant.

17. Based on those considerations, and the information presently before the Court, I have come to the conclusion that the application for bail should be refused. The Court is satisfied that there are substantial grounds for believing that one or more of the statutory bail risks on which the court may exercise its discretion to deny bail is made out—namely, that if released on bail, the applicant will likely fail to appear for trial and interfere with witnesses. I have come to that conclusion for the brief reasons given below.

18. The charge against the applicant is very serious (attempted murder) and there is cogent evidence connecting him to those allegations. Counsel for the applicant argued that the recantation evidence undermines the evidential foundation connecting him to the allegations. I deal with the recantation evidence a little later in this Ruling, but I note for now that the evidence of the virtual complainant is not the only evidence connecting the applicant to the offence.

19. Secondly, the evidence indicates that the applicant travelled to Canada shortly after the alleged offence in 2024 and is now only presently before the Court because he was arrested and

deported on suspicion of gang activity. While counsel rightly pointed out that the gang-related allegations were not proven, and that there is no charge in the Bahamian courts relative to any of those offences, the fact is that he apparently travelled to Canada at some point after the event. It is argued on his behalf that his travel could have been totally unconnected with the allegations here, but I find that a rather incredulous suggestion. In my view, it is more probable than not that he attempted to flee the jurisdiction with the intention of avoiding responsibility, and I am therefore of the opinion that this creates a palpable risk of absconding.

20. The stakes are eminently higher now, considering the nature of the charge (which attracts a possible life sentence) and that creates a powerful incentive to flee (see **Hurnam**). It is also plain that the applicant's apparent ties to the Bahamas did not serve as a deterrent to his travel to Canada, as he already had at least one child and was employed when he allegedly absconded. I accept, therefore, that there are grounds for believing that the applicant poses a palpable flight risk.

21. I have further taken into consideration the fact that bail was refused in November of 2025 by Brathwaite J., mainly on the grounds that the applicant was a flight risk. While I have taken this into consideration, I remind myself that I am required to consider each bail application on its own merits, so I am not bound by the earlier decision of Brathwaite J.

22. I now come to consider the recantation evidence. I dealt with the issue of recantation evidence somewhat more comprehensively in **Tyrone Williams v DPP** (2024/CRI/BAL/00247), a decision delivered the same time as the decision in this case. It is therefore useful to repeat some of what I said in **Tyrone Williams** before considering the recanting evidence in this case. This is what I said there:

“34. I therefore accept that the filing of an affidavit by the prosecution's primary witness recanting an earlier account given to the police is a matter capable of affecting the apparent strength of the evidence and the prosecution's case, and may be considered by the court. In fact, the “*nature and strength of the evidence against the defendant*” is one of the factors which the Court is mandated to take into consideration under Part A of the First Schedule. It does not, however, determine the issue conclusively at the bail stage. As the applicant has accepted, the court is not conducting a trial within a trial, nor making any *final* findings as to credibility, reliability, or truthfulness. These are indeed matters for trial (see **Cordero McDonald, Stephon Davis**). The affidavit must also be considered in the context of all the available material. However, I also indicated to counsel during the hearing that the recanting material was a double-edge sword.

[...]

36. As indicated, this is not the place to assess the quality or probative value of a recanting affidavit, as it is not properly part of the evidence outlined before the Court in support of the charges. But, to the extent that it is said to materially weaken the cogency of the prosecution's main evidence and the basis for the custody of the applicant, it can be taken

into consideration in discussing the “...*nature and strength of the evidence against the defendant*”.

37. The principles derived from a number of cases suggests that relevant considerations might include: (i) the timing of the withdrawal; (ii) the circumstances in which it was made; (iii) whether the witness or complainant had any contact with the accused person or persons associated with the accused before recanting; (iv) whether there are any indications of fear, dependency, loyalty, remorse or pressure; (v) whether the affidavit explains why the earlier allegations were said to be false or mistaken, if there is a conflict with the new material; and (v) whether it fits or conflicts with the broader evidential picture. See for example, **Maharaj and Others v The State** [2021] UKPC 27; **Sharmella Inderjali (as next friend of Marcus Bislam) v The Director of Public Prosecutions** [2019] CCJ 4 (AJ); and **Hamon v R** [2013] NZCA 540. It is appreciated that several of these cases deal with the principles involved where recantation evidence is relief on in substantive hearings (such as appeals), but they may also be apposite to preliminary proceedings, such as bail.
23. I added, as a postscript to that Ruling, the following:
- “48. I also wish to make the observation that applicants for bail relying on recantation evidence or similar material should tread very cautiously. It is a double-edged sword. The production or adducing of such material without any explanation as to the circumstances in which it was obtained or even as to the authenticity of its contents, is a risky gambit. Recantation evidence is not inherently unreliable, but it is to be viewed with a healthy dose of skepticism. The court is always alert to the danger that it poses, particularly when that evidence is said to come from the persons who should have the least motivation in the world for doing so.”
24. Again, as in **Tyrone Williams**, there is no evidence of the circumstances in which the affidavit sought to be relied on by the applicant was made out, and in particular the Court does not know whether it was made out of remorse, loyalty, intimidation, inducement or pressure. There is no explanation for the complete aboutface in the identification evidence of a witness who was very clear that she had a good opportunity to see the shooter and positively identified him to the investigating authorities.
25. Thus, the recanting material not only leaves the Court unclear as to the circumstances in which it was made, and the motivation behind it, but also raises the spectre of witness interference or acts to otherwise obstruct the course of justice. There are a number of Court of Appeal authorities that support the position that this Court can properly draw certain inferences from recanting evidence in deciding to refuse bail. The court is skeptical of approaches from virtual complainants and/or witnesses allegedly coming to bat for accused persons seeking bail. There are also a number of Court of Appeal cases which state that it might be appropriate for a judge to draw adverse inferences from this kind of material of a propensity to interfere with witnesses or otherwise obstruct the course of justice, depending on the circumstances of the case.

26. I therefore find that the unexplained circumstances of this recantation justifies an inference that the applicant will interfere with a complainant/witness and may have already done so, and this is one of the grounds on which I will refuse bail.

27. Lastly, I make one brief comment on the allegations that the applicant's pre-trial detention and the circumstances of that detention violates, among other things, the right to have adequate facilities and time to prepare his defence. Firstly, although the Bail Act does not identify Constitutional violations as autonomous grounds for bail, this does not mean that they are totally irrelevant. As I have said on another occasion, the grant of bail is not a box-ticking exercise (see **Samuel Meadows**). Questions of constitutional breaches may be relevant depending on how they impact on the legality, fairness or necessity of continued detention under the Bail Act. As noted, the Act requires the Court to judicially assess the circumstances of each case and to balance bail risks in respect of the individual against the public interest and the rights of the individual.

28. Thus, if an individual can demonstrate that his continuing detention is disproportionate because it specifically impairs his ability to prepare his defence, it may be a factor to be taken into consideration. I do not accept, however, that the applicant has made out those grounds. He has plainly been able to instruct counsel from the Office of the Public Defender, and has even been able to put before the Court evidence said to have come from the complainant. While there can be no doubt that persons on remand should have access to some basic facilities and amenities to enable them to prepare a defence (and the Court is troubled by the allegations of a lack of access to some basic materials), I do not find there to be any evidence that this is a significant factor that should weigh in favour of the applicant in the current case.

29. The court has considered whether any combination of bail conditions would sufficiently address the identified risks, including reporting conditions, curfew, non-contact, suretors electronic monitoring requirements, or even surrendering of travel documents in this particular case. Having done so, I am not satisfied in the circumstances of this case that such conditions would prevent the applicant from absconding and/or interfering with the witness.

CONCLUSION AND DISPOSITION

30. In all the circumstances, the application for bail is denied. The applicant should be made aware of his right of appeal pursuant to s. 8 of the Bail Act, and he may pursue that avenue if so advised or, alternatively, he may bring renewed applications for bail as permitted by law.

KLEIN J.



20 April 2026