

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Criminal Division

CRI/bal/00127/2023

B E T W E E N

JULIAN GEO SEIDE

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Honourable Madam Justice Renae McKay

Appearances: Applicant appeared Pro Se
Ms. Tylah Murray for the Respondent

Hearing Dates: 16th July, 2025

BAIL DECISION

[1.] The Applicant, Julian Geo Seide (“**the Applicant**”), applied for bail on 17th June, 2025. The Applicant was charged with murder contrary to section 291(1) (b) of the Penal Code, Chapter 84. He made a previous bail application before Justice Brathwaite.

[2.] The Applicant appeared pro se and made submissions on his own behalf. He said that he has never been locked up before and has no prior antecedents. He maintains that he is not a flight risk and will not abscond. In response he said that he has no gang affiliations.

[3.] The bail application is opposed by the Director of Public Prosecutions, (“**the Respondent**”). Ms. Murray made submissions on behalf of the Respondent. She relied on the Affidavit in Response filed on the 4th September, 2024 and the previous bail decision of Brathwaite J.

- [4.] The Respondent says that there is nothing peculiar about the Applicant's situation which suggests that his detention is unjustifiable. She highlighted paragraph 14 of the Affidavit in Response which states that the Respondent verily believes that having regard to the cogency of the evidence and seriousness of the offence, that the Applicant should not be released on bail. She continued that there is sufficient incentive for the Applicant to fail to appear for his trial and interfere with Prosecution witnesses.
- [5.] Ms. Murray further referred the Court to paragraph 15 of the Affidavit in Response which provided a record from the Department of Immigration Border Control, showing that the Applicant has no data pertaining to his travel history. Further the records at the Department of Immigration Identity Management System revealed that the Applicant has no form of status in the Bahamas.
- [6.] She continued that the Applicant has no application with the Department of Immigration for any form of status in the country, is sufficient evidence that the Applicant is likely to abscond and will fail to surrender to custody.
- [7.] Counsel for the Prosecution referred the Court to paragraph 18 and 19 of the ruling of Brathwaite J., which provided, "**18. [...] the Applicant faces a weighty penalty if convicted such as to raise the inference of a risk of flight, which exacerbated by the fact that the Applicant, while he was born in this country, has no legal status at this time. 19. Of greater concern is the evidence that the Applicant is affiliated with a gang, and therefore poses a danger to the community, and more specifically to the witness upon whom the Prosecution relies.**"

Law & Analysis

- [8.] I am guided by the **Bail (Amendment) Act, Chapter 103, section 4(2)** which provides the legal framework for the grant of bail in this jurisdiction, which provides:-
"4. (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 or the Court of Appeal is satisfied that the person charged-
(a) ...
(b) ...
(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 where 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."
- [9.] In this regard, I agree with Brathwaite J., in his bail decision for the Applicant. He opined that the authority of **Richard Hepburn v Attorney General SCCr. App. No. 276 of 2014** is very instructive. He quoted paragraph 5-11 of Justice Allen, P decision,

“5. Bail is increasingly becoming the most vexing, controversial and complex issue confronting free societies in every part of the world. It highlights the tension between two important but competing interests: the need of the society to be protected from person alleging to have committed a crime; and the fundamental constitutional canons, which secure freedom from arbitrary arrest and detention and serve as the bulwark against punishment before conviction.

6. Indeed, the recognition of the tension between these competing interests is reflected in the following passage from the Privy Council’s decision in Hurman v The State [2006] 3 LRC 370. At page 374 of the judgement Lord Bingham said inter alia:

“the courts are routinely called upon to consider whether an unconvicted suspect or defendant shall be released on bail, subject to conditions, pending his trial. Such decisions very often raise questions of importance both to the individual suspect or defendant and to the community as a whole. The interest of the individual is, of course, to remain at liberty, unless or until he is convicted of a crime sufficiently serious to deprive him of his liberty. Any loss of liberty before that time, particularly if he is acquitted or never tried, will inevitably prejudice him and, in many cases, his livelihood and his family. But the community has a countervailing interest, in seeking to ensure that the course of justice is not thwarted by the flight of the suspect or defendant or perverted by his interference with witnesses or evidence and that does not take advantage of the inevitable delay before trial to commit further offences.”

7. The objective of detaining an accused person is to secure his appearance for his trial and to ensure he is available to be punished if found guilty. Indeed, if a person’s presence at trial can be reasonably ensured otherwise than by his detention, it would be unjust and unfair to deprive him of his liberty.

8. Moreover, even if a person’s appearance could not be so ensured, he is entitled to be released either unconditionally or on reasonable conditions if he is not put to his trial within a reasonable time, or if it is unlikely that he will be so tried.

9. Accordingly, bail is the right of a person charged with a criminal offence to be released from custody on his undertaking to appear for his trial at a specified time, and to comply with any conditions that the court may think fit to impose.

10. The relevant law on bail is found in articles 19(3), 20(2) (a) and 28 of the Constitution, and in section 3 and 4 of the Bail Act 1994, as amended (“the Act”). It is immediately apparent from reading of those provisions that two distinct rights to bail are given, namely, a general right to an unconvicted person to be released on bail unless there is sufficient reason (Part A of the Schedule) not to grant it; and the absolute right of such person to be released on bail if his constitutional time guarantee is breached or is likely to be breached.

11. The general right to bail clearly requires judges on such application, to conduct a realistic assessment of the right of the accused to remain at liberty and the public’s interest as indicated by the grounds prescribed in Part A for denying bail. Ineluctably,

in some circumstances, the resumption of innocence and the right of an accused to remain at liberty, must give way to accommodate that interest.”

[10.] I have heard and considered the Applicant and Respondent submissions.

[11.] It is important that this Court be satisfied that the evidence against the Applicant is strong and cogent. While there are other issues of concern, the quality of evidence must be first and paramount in these circumstances.

[12.] As outlined in **Cordero McDonald v. The Attorney General SCCrApp No 195 of 2016**, Allen P., clarified the extent of a judge's task in relation to the evidence which is adduced at a bail application:-

“34. It is not the duty of a judge considering a bail application to decide disputed facts or law and 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 such as to justify the deprivation of 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.”

[13.] Having closely considered the facts as alleged and the evidence adduced, I find that the evidence against the Applicant is strong and cogent. The Applicant was positively identified by an anonymous witnesses who placed him at the crime scene and was able to positively identify him from a 12 man photo lineup. The evidence adduced before the Court as contained in the witness statement is strong and cogent and capable of raising a “reasonable suspicion” of the Applicant’s involvement in the offence.

[14.] In the Court of Appeal decision of **Jonathan Armbrister v The Attorney General SCCrApp. No 45 of 2011**, it was stated that:- **“The seriousness of the offence, with which the accused is charged and the penalty which it is likely to entail upon conviction, has always been, and continues to be an important consideration in determining whether bail should be granted or not. Naturally, in cases of murder and other serious offences, the seriousness of the offence should invariably weigh heavily in the scale against the grant of bail”**

[15.] Further in the Court of Appeal decision **Jeremiah Andrews vs. The Director of Public Prosecutions SCCrApp No. 163 of 2019** at paragraph 30 provides:- **“30. These authorities all confirm therefore that the seriousness of the offence, coupled with the strength of the evidence and the likely penalty which is likely to be imposed upon conviction, have always been, and continue to be important considerations in determining whether bail should be granted or not. However, these factors may give rise to an inference that the defendant may abscond. That inference can be weakened by the consideration of other relevant factors disclosed in the evidence. eg the applicant’s resources, family connections..”**

[16.] I adopt Brathwaite J., reasoning at paragraph 14 and 18 which provide:- **“14. While no direct evidence has been provided that the Applicant will not appear for his trial, the**

Applicant is charged with murder which, in considering the possible penalty which would follow a conviction, raises the issue of the likelihood of not appearing for trial. I must also bear in mind that the Applicant is not a Bahamian citizen, and has no immigration status in the country, although I accept that he was born here.

18. While bearing in mind the presumption of innocence. I am concerned that the Applicant in this matter faces a weighty penalty if convicted such as to raise the inference of a risk of flight, which exacerbated by the fact that the Applicant, while he was born in this country, has no legal status at this time. While counsel has submitted that the Applicant is entitled to apply for registration as a citizen, the fact that an application has to be made must mean that refusal is possible, as the approval of such an application is not automatic. I am therefore satisfied that the Applicant is a flight risk.”

[17.] The Applicant is charged with a serious offence. I agree with the Prosecution that the Applicant has is likely to commit similar or further offences if granted bail. I also have regard to the Applicant’s gang affiliation which raises a concern for witness interference and public safety and order. I am of the view that the release of the Applicant on bail would be detrimental to the protection and safety of the public and that of the witness.

[18.] In my view the normal bail conditions would not be effective in addressing these concerns. In the circumstances and having regard to the foregoing reasons I am not satisfied that any stringent conditions imposed on the Applicant would be sufficient to ameliorate these apprehensions. I do not find that the Applicant is not a fit and proper candidate for bail. Accordingly, the Applicant’s application for bail is denied.

Dated the 16th day of July, 2025

Renaë McKay
The Honourable Madam Justice