

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Criminal Division

CRI/bal/00078/2022

B E T W E E N

KENDAL ROLLE

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Honourable Madam Justice Renae McKay

Appearances: Mr. Phillip Hilton for the Applicant

Ms. Tylah Murray for the Respondent

Hearing Dates: 16th July, 2025

BAIL DECISION

[1.] The Applicant, Kendal Rolle (**“hereinafter referred to as the Applicant”**), applied for bail by way of Summons supported by Affidavit filed on 19th March, 2025. The Applicant was charged with the following offences:-

- i. Five counts of Stealing contrary to sections 139 and 345 of the Penal Code, Chapter 84;
- ii. Three counts of Damage contrary to section 338 of the Penal Code, Chapter 84;
- iii. One count of Receiving contrary to section 358 of the Penal Code, Chapter 84;
- iv. One count of Possession of Housebreaking Implements contrary to section 365 of the Penal Code, Chapter 84; and
- v. One count of Deceit of a Public Officer contrary to section 243 of the Penal Code, Chapter 84.

- [2.] The Applicant is a 32 year old Bahamian citizen. He maintains that he is innocent of the charges as laid before the Court. He further says that prior to being remanded he was employed as a Mail Boat Fork Cliff Driver.
- [3.] The Applicant acknowledged that he has prior antecedents. He craved the Court's indulgence and discretion and grant him bail.
- [4.] The Respondent filed its affidavit in Response of 25th April, 2025. The Respondent opposed the bail application and avers that these offences are alleged to have occurred between 14th September, 2021 and 1st March, 2025. The Respondent submitted that the Applicant is not a fit and proper candidate for bail because of his antecedents which has a criminal history from 2012 to 2022.
- [5.] The Respondent also highlighted the report of Sgt. 1061 Gaitor who apprehended the Applicant while acting in a suspicious manner. The Officer inspected his vehicle and found a black and yellow screwdriver and a brown head tam in the Applicant's vehicle.
- [6.] The Respondent further maintains that the Applicant, during his record of interview, had admitted to committing the alleged offences, which confirms that the evidence is strong and cogent. They also say that the Applicant has a propensity to commit similar offences if granted bail and has asked the Court to deny the Applicant bail.

Law and Analysis

- [7.] The Court's powers to grant bail are found in the **Bail (Amendment) Act, Chapter 103, Section 4(2)** provides the statutory framework for the grant of bail for part C:-
“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) has not been tried within a reasonable time;
(b) is unlikely to be tried within a 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 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.”
- [8.] The **First Schedule Part A of the Bail (Amendment) 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.”

[9.] The Court gave special regard to the submissions of the Applicant and the Respondent.

[10.] The Court of Appeal 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.”

[11.] I find that the evidence adduced as contained in the witness statement of Officer Gaitor and the Applicant’s confession to the commission of the offences during his record of interview provide strong and cogent evidence and also raises a reasonable suspicion that the Applicant was involved in the crimes.

[12.] I also wish to highlight the following from the Court of Appeal in **Stephon Davis v DPP SccrApp No 20 of 2023**:-

“In our view ‘strong and cogent evidence’ is not the critical factor on a bail application. The Judge is only required to evaluate whether the witness statements show a case that is plausible on its face. To put it another way, there must be some evidence before the Court capable of establishing the guilt of the Appellant. In

Essence, the test is prima facie evidence, comparable to what is required at the end of the Prosecution's case in a criminal trial. We can find a useful summary of the strength of the evidence required at the end of the Prosecution's case in the headnote to the Privy Council's decision in Ellis Taibo [11996] 48 WIR 74:

“On a submission of no case to answer, the criterion to be applied by the trial judge is whether there is material on which a jury could, without irrationality, be satisfied of guilt; if there is, the judge is required to allow the trial to proceed.”

[13.] A paramount consideration before this Court is public safety. The antecedents of the Applicant occurred over a span of six years beginning in 2012. I must also consider the current influx of serious crimes in this jurisdiction.

[14.] Having regard to the criminal past of the Applicant, which cannot be ignored or taken lightly, I find that the Applicant has the propensity to commit similar and further offences. I also make not that the Applicant was admitted to bail on previous occasions and has reoffended while on bail.

[15.] In considering whether conditions could be imposed to ensure the attendance of the Applicant at trial and to act as a further deterrence, I am mindful of the usual conditions which include reporting, electronic monitoring device (“EMD”), and curfew. In my view those conditions would not serve to prevent any re-offending or to protect the public order.

[16.] In the circumstances and having regard to the foregoing reasons I find that the Applicant is not a fit and proper candidate to be admitted to bail. Therefore bail is denied.

Dated the 16th day of July, 2025

Renaë McKay
The Honourable Madam Justice