

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Criminal Division
CRI/BAL/00116/2025**

B E T W E E N

MARVIN WILLIAMS

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Honourable Madam Justice Renae McKay

Appearances: Quintin Percentie for the Applicant
Jackie Burrows the Respondent

Hearing Dates: 21st August, 2025

BAIL DECISION

- [1.] The Applicant, Marvin Williams (“**the Applicant**”) made an Application to be admitted to bail. The Application for bail was filed by way of Summons and Affidavit in Support, both filed on 24th July, 2025.
- [2.] The Applicant is charged with Attempted Murder contrary to section 292(1) (B) of the Penal Code, Chapter 84 and Possession of a Firearm with Intent to Endanger Life contrary to section 33 of the Firearms Act, Chapter 213. The facts as alleged are that on 26th May, 2025, while on Harbour Island, the Applicant, by means on unlawful harm did intentionally and unlawfully attempt to cause the death of Henricka Solomon with a hand gun that he had in his possession.
- [3.] The Applicant maintained that he is a father to two young boys whom he is the sole provider for. He also averred that being admitted to bail will allow him the opportunity to be gainfully employed and provide for his family and kids.

[4.] The bail application is opposed by the Director of Public Prosecutions (“**the Respondent**”). The Respondent relied on its Affidavit in Response filed on 20th August, 2025. The Respondent maintains that the Applicant is not a fit and proper candidate for bail.

[5.] The Respondent said that the evidence against the Applicant is strong and cogent insofar that the witness testimonies identify the Applicant as the driver of the vehicle that belonged to his sister. The Respondent also maintained the need to protect public safety and order and the safety of the witnesses.

Applicant Submissions

[6.] Mr. Percentie made submissions on behalf of the Applicant herein. He sought to rely on the Affidavit in Support filed herein. Mr. Percentie took the Court through the Affidavit. In response to the Respondent’s Affidavit in Response, he said that the evidence that they intend to rely on does not implicate the Applicant as the perpetrator of the crime, it implicates him only as an individual in the car. He referred the Court to paragraph 4 of the Respondent’s Affidavit in Response to which he said that no other witness identified the Applicant as the perpetrator of the crime.

[7.] He asked the Court to note that the Applicant is a 32 year old resident of Harbour Island. Mr. Percentie acknowledged that the Applicant has prior antecedents. However, he maintained that had the Applicant taken advantage of the Rehabilitation of Offences Act, he would have been able to make an application for expungement of those records, he said that the antecedents listed would not have been before the Court. He continued that in all circumstances while the previous offences are listed as antecedents, he asked the Court to give some credit to the Applicant.

[8.] He also said that most of the antecedents that the Respondent rely on are spent matters. He said the stealing occurred some 12 years ago and the shop breaking happened some 8 years ago. Mr. Percentie continued that the Applicant is the sole provider of two minor sons and is a self-employed mechanic in Harbour Island. He further said that there are bail conditions that can be imposed on the Application to ensure his appearance at trial.

[9.] Mr. Percentie said that the Affidavit in Response by the Respondent raises the concern of the need for public safety and protection for the witnesses order. He said that having regard for the evidence presented, it does not implicate the Applicant as the perpetrator of the crime. The witness evidence only puts the witness in the vehicle at the time of the alleged crime.

[10.] Mr. Percentie acknowledged that Harbour Island is a small island. He said it might be a case of mistaken identity. He continued the charges are serious in nature, however the Applicant ought to be given the opportunity to defend the charges, which will be difficult to do if he is on remand.

Respondent Submissions

[11.] Ms. Burrows made submissions on behalf of the Respondent herein. She stated that although Mr. Percentie pointed out that the Applicant is not the sole perpetrator, she said that the evidence as adduced is that the Applicant was the driver of the vehicle where the shooter would have been sitting in the backseat of that vehicle, as found in the statement of one of the witnesses. The Applicant was seen circling the area, passing more than once, suggested that the Applicant was looking for someone. She said that another witness identified the Applicant. The Court can infer that the Applicant in circling the area and allowed the shooter to be able to fire shots from the backseat of the vehicle.

[12.] The Respondent's position is that it does not take one particular person to have one particular role in an offense for that person to be responsible for the commission of the offense. She added that the fact that the Applicant was identified and that it is a small island community, suggests that the witnesses are more likely to be familiar with persons they are seeing. Therefore, it takes away the possibility of mistaken identity. She stated that the Applicant and the vehicle that he drove were identified by witnesses.

[13.] As it related to the prior antecedents of the Applicant, Ms. Burrows noted the nature of the offences itself. There are previous convictions for causing harm and other offences that relate to offences of dishonesty which speaks to the Applicant's character. She also noted that the Rehabilitation of Offences Act, section 6, provides in criminal proceedings the Court should have regard to the antecedent record of a person who is appearing before a Court in matters such as these.

[14.] She further submitted that based on the clarity of the evidence given by witnesses that the Applicant is known to the witnesses, which raises an issue for public safety and order.

Law & Analysis

[15.] Having heard the submissions of the Applicant and the Respondent, I give my decision on the same.

[16.] The Applicant is presumed to be innocent of the charges against him until proven guilty. In this regard, **Article 20(2)(a) of the Constitution of The Bahamas** 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”.

[17.] **Article 19(1) (b)** further provides that no person shall be deprived of personal liberty, save upon reasonable suspicion of having committed a criminal offence.

[18.] 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.

(2A) For the purposes of subsection (2) (a) ... (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; (b) delay which is occasioned by the act or conduct of the accused is to be excluded from any calculation of what is considered to be a reasonable time.

(2B) reads, “For the purposes of subsection (2) (c), in deciding whether or not to grant bail to a person charged with an offence mentioned in Part C of the First Schedule, the character or antecedents of the person charged, the need to protect the safety of the public or public order and, where appropriate, the need to protect the safety of the victim or victims of the alleged offence, are to be primary considerations.”

[19.] 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—

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, 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.”

[20.] Justice Allen, P in the Court of Appeal decision Richard Hepburn v Attorney General SCCr. App. No. 276 of 2014 is very instructive.

“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."

[21.] It is important that the Court be satisfied that the evidence against the Applicant is strong and cogent. 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."

[22.] While there are additional issues of concern, the quality of evidence must be first and paramount in these circumstances. The witness statements along with the positive identification of the Applicant, and the identification of the vehicle used in the commission of the offence raises a reasonable suspicion of the Applicant's involvement in the alleged offences. The evidence as adduced by the Respondent is strong and cogent in these circumstances.

[23.] Another consideration for the Court is public safety and order and safety of the witnesses. The alleged incident occurred on Harbour Island, a small tight knit community. The Respondent indicated that the incident as alleged might be one of mistaken identity. However, I rely on the statements of both witnesses, whom both stated that they knew the male known to them as Marvin and that Marvin was driving his sister's vehicle. Both witness further stated that they saw the same vehicle drive past roughly around the same time on the night in question.

[24.] To my mind this is not an incident of mistaken identity as alleged by the Respondent. The closeness and familiarity that exists within the family islands must not be ignored. Both witnesses were able to easily identify the Applicant and the vehicle that he allegedly drove late into the night.

[25.] This close knit family island lifestyle also identifies a more serious issue in our community, witness safety and interference. I must give careful regard for the safety of the witnesses herein. This was a reckless and senseless crime, I must also give consideration

to the influx of gun violence in our small society, especially on the family islands. Consequently, the release of the Applicant on bail would be detrimental to the protection and safety of the public and that of the witnesses.

[26.] I do find that there is a likelihood that the Applicant may commit another offence, and one of similar nature if granted bail. However, having heard the submissions made by Counsel for both sides, and a review of the evidence adduced, I do not find that the Applicant is likely to abscond or that he is a flight risk. However, I do find that the Applicant is likely to interfere with the witness as they reside on Harbour Island along with the Applicant.

[27.] I am mindful of the usual bail conditions which include reporting, electronic monitoring device (“EMD”), curfew, etc. The imposition of conditions to ameliorate or mitigate the Court’s concerns must be relevant to the issues at hand. Given the Court’s finding of the Applicant being a threat to public safety and order, in my view, the normal bail conditions would not be effective in addressing these concerns. Neither am I satisfied that any stringent conditions imposed on the Applicant would be sufficient.

[28.] 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. Accordingly, the Applicant’s application for bail is denied.

Dated the day of September, 2025

Renaë McKay

The Honourable Madam Justice