COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Criminal Division

CRI/bal/00138/2016

B E T W E E N

RAVEN COOPER

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, Raven Cooper **("hereinafter referred to as the Applicant")**, applied for bail on 26th May, 2025. The Applicant was charged with two counts of armed robbery contrary to Section 339(2) of the Penal Code, Chapter 84 and one count of possession of an imitation firearm contrary to Section 34 of the Firearms Act, Chapter 213.

[2.] The facts as alleged are that on Wednesday, 8th March, 2023 sometime after 8:40pm the Complainant was at work when a slim built, dark skin male dressed in a black hoodie and dark colored short pants armed with a handgun took several envelopes from him that contained cash.

[3.] On a separate occasion, it was reported that on Wednesday, 8th March, 2023 sometime shortly after 9:00pm, the second Complainant was leaving work at Sunset Beach

Club when a slim built male approached him wearing a hoodie and armed with a handgun. The witness was ribbed of a silver Nissan Note and his cell phone.

[4.] The Applicant appeared pro se and made submissions on his own behalf. He said that he is hard working and has two jobs to return to if granted bail. He also said that he is not a flight risk and that the officers knew him from the past and are trying to defame his character.

[5.] The Applicant said that while he was previous on bail, he signed in regularly as required for bail conditions. He also said that the charges put before him now are not the same as his antecedents. He further begged the Court to grant him bail.

[6.] Ms. Tylah Murray made submissions on behalf of the Respondent. She said that the evidence against the Applicant is strong and cogent. The Prosecutor further relied on the Applicant's prior antecedents for housebreaking, stealing, receiving, assault with deadly instrument, armed robbery and violation of bail conditions, which she says suggests that he will likely commit further offences if granted bail.

[7.] Ms. Murray also relied on exhibit BM-4, the judgement of Hilton J., at paragraph 23 which states that the Applicant's 2023 conviction for breach of bail conditions underscores that there are no conditions which can be imposed on the Applicant that would prevent him from absconding or committing further offences.

[8.] The Prosecutor continued highlighting paragraph 11 of the Affidavit in Response stating there has no unreasonable delay in the aforementioned matters as both incidents are alleged to have occurred on the 8th March 2023. The VBI in respect of this matter was served on 23rd October, 2023 and the trial dates are set for 13th April, 2026 and 21st September, 2026. Based on the aforementioned the Prosecutor implied the Court to refuse the bail application in this instance.

Law & Analysis

[9.] 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."

[10.] In this regard, I agree with Hilton 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 us 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 suck 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."

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

[12.] 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. As outlined in 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 two eye witnesses who placed him at the crime scene. I find that the evidence adduced before the Court as contained in the witness statements attached to the Respondent's Affidavit 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.] While the Prosecution has not adduced direct evidence to support that the Applicant will abscond and not appear for his trial and will interfere with witnesses, the Applicant is charged with serious offences. However, I have also had regard for the decision of Hilton J. I rely on paragraphs 22 and 23 of that judgement:-

> **"22. The evidence against the Applicant (if the witnesses are believed) is very strong and cogent. This allied with the fact that he has multiple previous convictions for similar offences and was on bail prior to his arrest for the present offences is evidence that he may abscond and/or commit other offences if he is granted bail.**
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> **23. His recent 2023 conviction for breach of bail conditions underscores that there are no conditions that can be imposed on the Applicant that would prevent him from absconding or committing further offences."**

[17.] I accept the submission of the Prosecution that the Applicant has an extensive criminal antecedents for similar offences. I do find that there is a likelihood that the Applicant may commit another offence, and one of similar nature if granted bail.

[18.] Having heard the submissions made by the Applicant and the Respondent, 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.

[19.] I am of the view that there is a strong possibility that the Applicant would commit further and similar offences if admitted to bail as shown by his antecedents. The Court has at its forefront, public safety and witness interference. 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 witnesses.

[20.] Given the Court's finding of the Applicant's propensity to commit offences of similar nature and/or to escalate, the Applicant is also a threat to public safety and order. In my view the normal bail conditions would not be effective in addressing these concerns as the Applicant has previously breached bail conditions.

[21.] 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 16th day of July, 2025

Renae McKay
The Honourable Madam Justice