

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Criminal Division
2023/CRI/BAL/00195

BETWEEN:
SHAQUON DEAN

Applicant

AND
DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Hon. Mr. Justice Loren Klein
Appearances: Geoff Farquharson for the Applicant
Jacklyn Burrows with Danielle Capron for the Respondent
Hearing Date: 14 April 2026
Ruling: Oral Ruling 21 April; Written Reasons 27 April 2026

RULING (BAIL)

KLEIN, J.

Bail—Bail Act—Part C Offences—Attempted murder and possession of a firearm with intent to endanger life—Strength of Evidence—Identification evidence—Antecedents—Delay—Presumption of Innocence

INTRODUCTION

1. This is an application for bail by Shaquon Dean pursuant to a summons and supporting affidavit filed 1 April 2026. That affidavit is described as supplemental to the earlier affidavits filed in support of his several bail applications.

2. The applicant is charged with attempted murder and possession of a firearm with intent to endanger life, based on allegations relating to events that occurred on 26 July 2023. He has been on remand in respect of the said allegations since 6 September 2023 and has thrice been denied bail: (i) on 26 October 2023 by Williams J; (ii) on 8 April 2024 by Joyann Ferguson-Pratt J; and (iii) on 4 July 2024 by Hilton J. There appears to have been a further application for bail in early 2025, but the Court is unaware of the disposition of that matter.

3. The prosecution relied on an affidavit in response filed 19 May 2025 in relation to an earlier application by the applicant for bail and oral submissions.

Brief factual background

4. In brief, the allegations underlying the applicant's arrest and detention are that on Wednesday, 26 July 2023, he shot Ricardo Bullard at close range, while the latter was sitting

in his car in his driveway. The prosecution's case is that this was a "hit job", as the applicant allegedly said to the virtual complainant "*sorry I have to do this*", and that he was doing it on behalf of one of his boys "Bugs".

5. The prosecution's case is that there is strong identification ("ID") evidence, as the virtual complainant is known to the applicant, who saw him very clearly and recognized him, although this is disputed by the applicant. Sadly, the incident left the virtual complainant paralyzed.

Material in support of bail

6. The main thrust of the applicant's affidavit is to impugn the identification evidence relied on by the prosecution. It is alleged that the virtual complainant admitted to smoking a "joint" (marijuana) just before the incident, and that the identification was based on a fleeting glance, which it was contended is inherently unreliable. This is captured as follows in the affidavit:

- “4. I am charged with Attempted Murder and Possession of a Firearm with intent to endanger life.
5. The allegations arise out of an accusation made by a virtual complainant after he had admittedly been smoking marijuana for four hours.
6. The identification is alleged to have been made in difficult circumstances, based on a fleeting glance in the dark of night, while staring down the barrel of a gun.
7. I am advised that such identification is deemed by the Courts to be inherently unreliable and incapable of supporting a sound conviction on its own.
8. It is by no means cogent.”

7. The most recent affidavit of the Director of Public Prosecutions ("DPP") robustly rejects the suggestion that the identification evidence is weak. The main reasons for opposing bail are set out as follows:

- “7. That the Respondent avers that the evidence against the Applicant is cogent having regard to the statement of the virtual complainant, Ricardo Bullard, who reported to Police that on Wednesday 26th July 2023, around 1:30 p.m. while sitting in his vehicle in the front of his residence, a male he knows as Shaquon, approached his vehicle. Mr. Bullard further stated that Shaquon told him "sorry, I have to do this", and then he produced a black handgun and began discharging shots into Ricardo's vehicle. ...The virtual complainant also identified the Applicant from a Twelve-Man Photo line-up....

[...]

9. That the Respondent also avers that there are substantial grounds for believing that the nature of the evidence against the Applicant is cogent and the nature of the evidence against the Applicant is of the utmost relevance, for it underpins the reasonableness of

the suspicion of the commission of the aforementioned offences such as to justify the deprivation of his liberty by arrest, charge and detention.

10. That in light of the above and having regard to the fact that the Applicant has previous convictions, the Respondent avers that there is a need to protect the public and public safety and the witness. Further, the need for public safety and public order is of utmost importance and in the present circumstances cannot be ignored.”

Parties’ Submissions in brief

7. In oral submissions, Mr. Farquharson attacked the ID evidence, which he said was classic “Turnbull” evidence (**R v Turnbull** [1977] QB 224), considering it was fleeting glance in bad light and which would likely elicit a no-case submission at trial. He also submitted that the reliability of that evidence was further diminished because the virtual complainant admitted to “*smoking dope the whole day before the incident*”. As a result, he contended that it was not right that the applicant should “*rot in jail like a bag of potatoes*” based on a case that he was likely to win.

8. The next point argued by counsel for the applicant was that despite the prosecution painting the applicant as a threat to public safety and to the victim, they had not put anything before the court that would substantiate that, except for bare averments in the affidavit. It was accepted that the applicant had prior convictions, but these related to two counts of possession of dangerous drugs and one count of deceit of a public officer, committed between 2020 and 2021. None of these prior convictions, it was argued, involved violence or a firearm, and therefore they did not justify the conclusions of the prosecution that the applicant was either a threat to public safety, the victim, or that he would re-offend or abscond while on bail.

9. It was further submitted that the prosecution had not provided any evidence for the likelihood of a bail risk so as to impose conditions, but that in any event any perceived risk could be managed by the imposition of reasonable conditions, which the application would be willing to comply with.

10. Lastly, Mr. Farquharson submitted that bail was a constitutional right and raised the spectre of whether the statutory considerations and conditions imposed for the grant of bail violated the constitutional right to bail and the judicial discretion to grant of bail. I should say immediately, however, that although the constitutional issue was obliquely raised, I did not consider Mr. Farquharson to be making a direct attack on the constitutionality of the Bail Act. This cannot be done by a side wind, and in the circumstances the Court was not called upon to consider the constitutional ramifications.

11. For the respondent, Ms. Burrows vigorously opposed the suggestion that the identification evidence was not cogent. The identification was based, it was contended, not only on an opportunity to clearly see the applicant, but the virtual complainant knew and recognized the applicant, and is said to have engaged in a conversation with him—ominous

though it was. The prosecution did not deny that the virtual complainant admitted to smoking a joint, but disputed the submissions that he was “smoking all day”, which was not borne out by the evidence.

12. Counsel for the DPP also submitted that the applicant’s trial was set to commence on 10 August 2026, so he was therefore still within the presumptive 3-year statutory period for trial within a reasonable time. Next, it was argued that, having regard to the nature and manner in which the applicant is alleged to have committed the offence, the prosecution was specifically concerned about the safety of the victim and the safety of the public. It was submitted that no conditions, including the imposition of an electronic monitoring device would effectively guarantee the safety of the virtual complainant in the circumstances.

ANALYSIS AND DISCUSSION

Law and Legal Principles

13. 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 and are: (i) the 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 20203, and **Attorney-General v Bradley Ferguson et. al.**, SCCrApp. Nos. 57, 106, 116 of 2008).

Court’s Application of Principles to current application

14. 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 allegations 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), his 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 applicant should be admitted to bail, subject to the conditions which I will outline below. In other words, the prosecution has not satisfied me that there are

substantial grounds for believing that one or more of the primary 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 abscond and fail to appear for trial, would likely interfere with or harm a witness or otherwise interfere with the course of justice, or would likely reoffend if granted bail. I come to that conclusion for the brief reasons given below.

18. Firstly, I note the submissions of counsel for the prosecution that the allegations against the applicant disclose an offence that is not only serious (attempted murder with firearms) but indicates a cold and callous act, which has left a victim paralyzed. Those are indeed very serious allegations, and the court has given anxious consideration to it. But the law is clear that the seriousness of the alleged offence by itself is not a sufficient basis to deny bail, otherwise no one charged with murder (or attempted murder) would ever be admitted to bail (see, **Stephon Davis v DPP**).

19. Secondly, the prosecution relies on the fact that the applicant’s pre-trial remand time is still within the statutorily presumed three-year period of reasonableness, as a trial date is set for 10 August 2026. However, as argued by defence counsel, and accepted by the Court, the 3-year period is just a statutory rule-of-thumb, and the court must consider what is a reasonable time in all the circumstances of the case (see, for example, **Duran Neeley**). As counsel pointed out, the prosecution only proposes to call nine witnesses in this case, so it is not likely to last longer than a week. In the circumstances, he submitted that this kind of case should not take three years to come on, and the applicant should not be held in custody for that period waiting for what is a relatively simple case to bring on. In the circumstances, even though the matter is within the statutory period, the delay must redound in favour of the applicant.

20. Thirdly, the prosecution relied on the applicant’s antecedent in support of its application to portray the applicant as a threat to public safety and the witness. As noted, the applicant has three prior convictions, as follows: (i) possession of dangerous drugs with intent to supply in 2020, for which he was fined \$1,500.00 or 9 months in prison in default; (ii) deceit of a public officer (3 counts), 2021, for which he was fined \$200.00 or one month in prison for each count to run concurrently; and (iii) possession of dangerous drugs with intent to supply, 2021, for which he was placed on probation for 18 months, or in default subject to conviction and fine of \$500.00 or three months in prison.

21. With respect, this hardly justifies the conclusion of the prosecution that “...*the need for public safety and public order is of utmost importance and in the present circumstances cannot be ignored*”. The prior offences are all non-violent and none involve the use of a firearm. As I observed in **Tryone Williams**, a decision dated 20 April 2026 (2024/CRI/BAL00247), the prosecution should guard against the inclusion and reliance on statements that are “*broad, un-particularized and unsupported by conduct attributable to the applicant*” in its affidavits opposing bail. There has to be something put before the Court to suggest that one of the bail risks is a probability based on the prior conduct or history of the applicant, or some other evidence that enables the court to find that there are substantial grounds for believing that such a risk will manifest.

22. Fourthly, I should say something about the earlier decisions to refuse bail. As pointed out in the authorities above, it is clear that the Court is under a duty to hear each bail application afresh (see, **DPP v Samuel Meadows**, where this Court summarized some of the applicable principles). But while the Court will consider and give due deference to earlier judicial decisions refusing bail, it is not bound by any of them. In any event, the first thing to note is that the applicant's last judicial refusal was in July 2024, nearly two years ago. I am of the view that the substantial passage of time since the last application is clearly a material change of circumstances for the purposes of considering an application de novo.

23. Fifthly, I should also indicate that I was not swayed by the applicant's attack on the eyewitness evidence, which he characterized as inherently unreliable based on the **Turnbull** guidelines, and which was said to be further weakened by the fact that the virtual complainant admitted to smoking a joint before the incident. Some of these matters are disputed and, in any event, they are matters for trial, not a bail application (**Stephon Davis v DPP**). I am satisfied that there is a sufficient *prima facie* case connecting the applicant to the allegations, as he is known to the victim. However, the strength of the evidence is just one of the general bail considerations and cannot be determinative of anything. To give it inordinate weight would reverse the presumption of innocence.

24. Finally, I do not accept the contention of counsel for the prosecution that the applicant poses one of more of the bail risks—i.e., either that he would abscond and not appear for trial, that he will re-offend while on bail or interfere with the victim or witnesses—which cannot be managed by the imposition of *any* conditions. The prosecution alleges in particular that it is specifically concerned about the safety of the witness, and that even an EMD will not protect against this. As I had cause to remark in another ruling, the blanket statement that no conditions can be imposed to manage any of these risks, calls into question the very utility of bail conditions themselves. The court must always balance the public interest and safety with the right of the liberty of the subject, but it cannot be a zero-sum game of simply denying liberty on the pretext that there are no conditions that could be imposed to adequately manage bail risks.

CONCLUSION AND DISPOSITION

25. In all the circumstances, the application for bail is granted subject to compliance with the following conditions:

- (i) Bail granted in the sum of \$15,000.00 with two or three suretors;
- (ii) The applicant is not to interfere with or have any contact with the virtual complainant and any of the witnesses, either personally or through an agent;
- (iii) The applicant is to report to the East St. South Police Station each Monday, Wednesday and Friday at or before 6:30 p.m.;
- (iv) The applicant is to observe a 9 p.m. to 6 a.m. curfew; and
- (v) The applicant is to be fitted with an electronic monitoring device.

26. The breach of any of these conditions will render the applicant liable to being remanded and to proceedings for the revocation of bail.

KLEIN J.

27 April 2026