

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Criminal Division

CRI/BAL/00472/2020

BETWEEN

ALCOTT FOX

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Honourable Justice Darron Ellis

Appearances: Stanley Rolle for the Applicant

Xandrell Bain with Tanesha Rolle for the Respondent

Hearing Date: April 28, 2026

Bail Act – Bail application – Part A of the First Schedule – Constitutional presumption of innocence – Evidential burden on the Crown – Whether substantial grounds exist for believing that the Applicant would fail to surrender to custody or commit further offences if released – Nature and seriousness of the alleged offence – Allegation that the Applicant committed the present offence while on bail for murder – Relevance of antecedents and pending proceedings – Adequacy of proposed bail conditions – Bail refused.

RULING

Introduction

- [1.] This is an application by Alcott Fox for bail in respect of a charge of Stealing a Vehicle, contrary to section 345 of the Penal Code, Chapter 84.
- [2.] The application was commenced by Summons filed on 11 March 2026 and is supported by an affidavit sworn by the Applicant on the same date.
- [3.] The Respondent opposes the application and relies upon the affidavit of Max Julien, attorney in the Office of the Director of Public Prosecutions.
- [4.] Having considered the affidavit evidence, the submissions of counsel, the constitutional principles engaged, and the statutory criteria under the Bail Act, the Court refuses the application for the reasons that follow.
- [5.] The Applicant is a Bahamian citizen, born on 14 December 1993, and resides at #18 Seabreeze Lane, New Providence. The present charge arises from an allegation that, on 31 January 2026, the Applicant stole a black 2013 Kia Optima valued at \$8,000.
- [6.] The Applicant was arraigned on 4 February 2026 and was remanded into custody.

The Applicant's Submissions

- [7.] The Applicant denies the allegation. He maintains his innocence and submits that he is a fit and proper candidate for bail. The Applicant also refers to an ankle-monitoring report which, he contends, exonerates him. That report, however, is not before the Court. The Court therefore cannot attach weight to it on this application. The application must be determined on the evidence properly placed before the Court.
- [8.] Counsel for the Applicant submits that he is presumed innocent and that the Crown has produced no sufficient evidence that the Applicant would abscond, interfere with witnesses, obstruct the course of justice, commit further offences, or otherwise fail to comply with any conditions imposed by the Court.

[9.] In relation to a separate pending murder charge that the Applicant faces, Counsel further submits that the separate pending murder charge should not be treated as proof of guilt or used as a substitute for evidence of risk of absconding.

The Crown's Submissions

[10.] The Crown opposes bail. It submits that the evidence before the Court discloses substantial grounds for believing that, if released, the Applicant would commit further offences and may fail to surrender to custody.

[11.] The Crown places particular reliance on the following matters:

(i) the Applicant was already on bail for murder when the present offence is alleged to have been committed;

(ii) the Applicant has relevant antecedents; and

(iii) the seriousness of both the present charge and the pending murder charge.

[12.] The Crown therefore submits that the Applicant is not a fit and proper person for bail.

The Law

[13.] The starting point is the constitutional protection afforded to every person charged with a criminal offence. **Article 20(2)(a) of the Constitution** provides:

“Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved or has pleaded guilty.”

[14.] The presumption of innocence is a fundamental safeguard. It applies fully to the Applicant and remains an important consideration in the Court's assessment. It means that the Applicant is not to be treated as guilty of either the present charge or the pending murder charge.

[15.] The presumption of innocence does not, however, create an automatic entitlement to bail. The Court must also apply the statutory framework under the Bail Act and determine whether the Crown has placed before the Court material capable of establishing substantial grounds for believing that one or more of the statutory risks exists, which may prevent the granting of bail.

[16.] Under **Part A of the First Schedule to the Bail Act**, the Court must consider whether there are substantial grounds for believing that, if released on bail, the Applicant would:

(i) fail to surrender to custody;

(ii) commit further offences while on bail; or

(iii) interfere with witnesses or otherwise obstruct the course of justice

[17.] The burden rests on the Crown to identify evidence capable of supporting the asserted risk. Bare assertion is insufficient. In **Jevon Seymour v Director of Public Prosecutions**, SCCrApp No. 115 of 2019, the Court of Appeal emphasised that the Crown bears an evidential burden and must place before the Court material capable of supporting the risk relied upon.

[18.] Similarly, in **Jeremiah Andrews v Director of Public Prosecutions**, SCCrApp No. 163 of 2019, *Evans JA* observed that unsupported assertions are of no assistance unless grounded in evidence.

[19.] The seriousness of the offence and likely penalty are relevant considerations, but they do not automatically require refusal of bail. In **Hurnam v State of Mauritius** [2006] 1 WLR 857, the Privy Council stated that the seriousness of the offence and the severity of the penalty may provide grounds for refusing bail. Still, they do not do so of themselves, without more. They are factors relevant to whether, in all the circumstances, it is necessary to deprive the applicant of liberty. Clear and explicit reasons must be given.

[20.] Similarly, in **Jonathan Armbrister v Attorney General**, SCCrApp No. 145 of 2011, *John JA* emphasised that the proper test is whether it is probable that the defendant will appear at his trial, and that bail is not to be withheld merely as punishment. The nature of the charge, the evidence in support of it, the likely sanction upon conviction, the accused's record, and the likelihood of interference with witnesses are all relevant considerations.

[21.] The proper question is therefore not whether the Applicant is guilty or whether conviction is likely. It is whether, on the evidence before the Court, there are substantial grounds for believing that the statutory risks relied on by the Crown exist, and whether conditions can adequately address any such risks.

Analysis and Discussion

[22.] The Court proceeds on the basis that the application falls to be determined under the Court's general discretion, having regard to the factors in Part A of the First Schedule to the Bail Act.

[23.] I begin with the presumption of innocence. The Applicant is presumed innocent of the present charge. He is also presumed innocent of the pending murder charge. The Court must be careful not to convert either allegation into proof of criminality.

[24.] The Court must balance the Applicant's constitutional right to liberty and the presumption of innocence against the public interest in ensuring that accused persons attend trial, do not commit offences while on bail, do not interfere with witnesses, and do not obstruct the administration of justice.

[25.] That said, the existence of a pending charge, the fact that the Applicant was granted bail in respect of that charge, and the allegation that he committed a further offence while subject to that bail are matters which the Court may consider for the limited purpose of assessing risk under the Bail Act.

[26.] The pending murder charge is therefore not treated as proof that the Applicant committed murder. It is relevant only to the extent that it forms part of the broader risk assessment, particularly when considered alongside the allegation that the present offence was committed while the Applicant was already subject to a court order granting bail.

[27.] With respect to delay, there is no evidence before the Court of prosecutorial inertia, systemic delay, or any circumstance suggesting that the Applicant's continued detention has become constitutionally unjustified by reason of delay.

[28.] The alleged offence occurred on 31 January 2026. The Applicant was arraigned on 4 February 2026. The application was filed on 11 March 2026. The period of pre-trial detention is therefore not, on the evidence presently before the Court, unreasonable. The Court also notes that there is no evidence that the matter cannot proceed within a reasonable time. Delay is therefore not a factor which weighs in favour of granting bail on this application.

[29.] The present charge is stealing a motor vehicle valued at **\$8,000**. It is a serious allegation involving dishonesty and the alleged deprivation of valuable property. The seriousness of an offence, standing alone, is not a sufficient basis for refusing bail. The Court must not refuse bail merely because an allegation is serious. Seriousness is, however, a relevant factor when assessing the risk of absconding, the incentive to avoid trial, and the adequacy of proposed conditions.

[30.] In this case, the seriousness of the present charge is heightened by the Crown's allegation that the offence was committed while the Applicant was already on bail for

murder. That circumstance is central to the Court's assessment of whether the Applicant can be trusted to comply with further bail conditions.

[31.] The Court does not conduct a mini-trial at a bail hearing. It would be inappropriate to make findings that belong to the trial court or to determine the ultimate reliability of the Crown's case.

[32.] For present purposes, having reviewed the affidavit material placed before the Court, I am not persuaded that the Crown's case can fairly be characterised as weak. That is not a finding of guilt. It is no more than an assessment, for bail purposes, that the Crown's opposition is not founded on a speculative or plainly insubstantial case.

[33.] The Applicant's antecedents are relevant to the statutory risk assessment. The material before the Court discloses previous convictions involving dishonesty and violence. The Court also takes into account that the Applicant is presently before the Court in circumstances where he is alleged to have committed the current offence while already on bail for a grave charge.

[34.] The fact that the Applicant was on bail for murder is not proof of guilt in respect of that allegation. Nor is the present allegation proof that he has breached the law. However, the Court is entitled to consider whether the material, viewed cumulatively, provides substantial grounds for believing that the Applicant poses a real risk of further offending if released.

[35.] In my judgment, it does. The most significant feature of this application is that the Applicant is alleged to have committed the present offence while already enjoying the benefit of bail. If established, that conduct would represent a failure to respect the trust reposed in him by the Court and would directly undermine confidence that further conditions would secure compliance.

[36.] The Crown relies on two principal risks: the risk that the Applicant will commit further offences while on bail, and the risk that he will fail to surrender to custody. I am satisfied that the Crown has discharged its evidential burden in relation to both risks.

[37.] The evidence relied upon by the Crown is not limited to bare assertion. It includes identifiable matters capable of supporting the statutory risks, namely:

(i) the Applicant was already on bail for murder when the present offence is alleged to have been committed;

(ii) the Applicant has antecedents involving dishonesty and violence;

(iii) the present allegation is itself an allegation of dishonesty involving a motor vehicle of significant value; and

(iv) the pending murder charge, while not proof of guilt, increases the seriousness of the overall circumstances and the potential incentive to avoid the criminal process.

[38.] Considered cumulatively, those matters establish substantial grounds for believing that, if released, the Applicant would present a real risk of committing further offences.

[39.] I am also satisfied that the same matters establish substantial grounds for believing that there is a real risk that the Applicant may fail to surrender to custody. The combination of a pending grave charge, the present allegation, and the potential consequences if convicted gives rise to a legitimate concern that the Applicant may commit further offences if granted bail and may not submit himself to the process of the Court if released.

[40.] I make no finding that the Applicant has in fact committed the present offence, nor any finding that he has committed the offence of murder for which he is separately charged. The findings made at this stage are limited to risk assessment under the Bail Act.

[41.] The final question is whether the imposition of bail conditions can adequately manage the identified risks.

[42.] The Court has considered whether reporting conditions, a curfew, electronic monitoring, residence requirements, sureties, or any combination of conventional bail conditions would be sufficient. In the circumstances of this case, I am not satisfied that they would be sufficient.

[43.] The difficulty for the Applicant is that the present offence is alleged to have occurred while he was already on bail. That circumstance materially weakens confidence in the effectiveness of further court-imposed conditions. Where the principal concern is non-compliance with the trust inherent in bail itself, the mere multiplication of conditions does not necessarily answer the risk.

[44.] I therefore find that the statutory risks identified by the Crown cannot be adequately mitigated by conditions at this time.

Conclusion

[45.] Having considered the constitutional presumption of innocence, the Applicant's right to liberty, the statutory criteria under the Bail Act, the affidavit evidence, and the submissions of counsel, I find that the Applicant is not presently a fit and proper candidate for bail.

[46.] The application is refused for the following reasons:

(i) no unreasonable delay has been established;

(ii) the Applicant's antecedents are relevant and weigh against the grant of bail;

(iii) there are substantial grounds for believing that the Applicant would commit further offences if released;

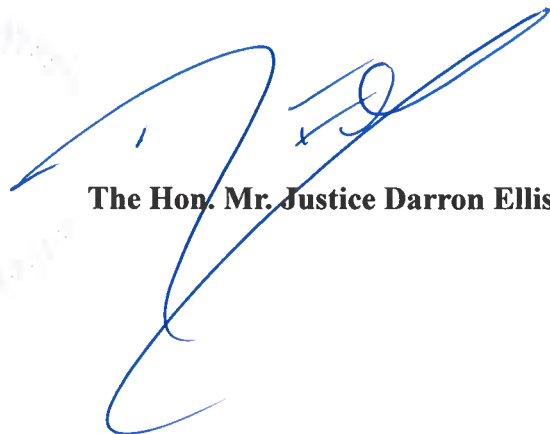
(iv) there are substantial grounds for believing that the Applicant may fail to surrender to custody;

(v) the Court is not satisfied that conditions can adequately mitigate the identified risks; and

(vi) the refusal of bail is not based on any finding of guilt, but on the statutory risk assessment required at this stage.

[47.] Accordingly, the bail application is refused. The applicant should be informed of his right of appeal under s. 8 of the Bail Act, and he may pursue that avenue if so advised, or alternatively bring renewed applications for bail as permitted by law.

Dated this 3rd day of July, A.D. 2026.



The Hon. Mr. Justice Darron Ellis