

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
CRIMINAL DIVISION
2026/CRI/BAL/00074

Between

TERINO RICO FISHER

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Honourable Madam Justice Weech-Gomez

Appearances: Mr. Phillip Hilton for the Applicant
Mr. Timothy Bailey and Calnan Kelly for the Respondent

Hearing Dates: 26th May 2026

RULING – BAIL DECISION

**Criminal Law – Bail – The Constitution – Bail Act, Chapter 103 (as amended) –
Application for bail variation**

WEECH-GOMEZ, J.

Introduction

[1.] The Applicant is charged with the offence of Murder contrary to sections 290(1) and 291(1)(b) of the Penal Code Chapter 84. The Applicant moved the court for bail by the filing of an Application dated 17th March 2026. The hearing of this bail Application was heard on the 26th of May 2026. Counsel for the Applicant, in his oral submissions advanced the following in support of the Application for Bail:

- (a) That the Applicant has been in custody since March of 2025;
- (b) The Applicant is of tender age and has no previous convictions in this or any other jurisdiction;
- (c) The Director of Public Prosecution has not presented any substantial ground to object to the application;
- (d) There is no indication that the Applicant will interfere with witnesses;
- (e) There is nothing to suggest that the Applicant will not attend to trial if granted bail or that the Applicant will abscond;
- (f) That the Applicant currently resides with his grandmother;
- (g) There is no other evidence save for the evidence of the anonymous witness linking the Applicant to this murder;
- (h) There is no cogent evidence to support the Prosecution charge;
- (i) Finally, counsel for the Applicant urged the court to use its discretion and grant bail to the Applicant as it is his Constitutional right.

Respondent's Position

[2.] In opposing the Application, the Respondent filed the Affidavit of Calnan Kelly, Attorney in the Office of the Director of Public Prosecutions, to which are exhibited a number of documents. I duly note paragraphs [4] to [10] of the Affidavit wherein it states:

“4. That there is strong and cogent evidence that links the Applicant to the alleged offence of murder, for which he is charged.

5. That an anonymous witness stated that on Sunday 30th March, 2025 sometime around 11:00 am they were in the Flemming Street area when they saw a male they known and Double R, pull a black gun from his coat and shot another male they know as Keely and ran off.

6. That the witness was shown a 12-man photo lineup and identified the applicant as the person who shot Keely and whom they know as Double R in photo #2 on the photo lineup sheet.

7. That the police has obtained video evidence showing the applicant who was dressed in the clothing as described by the anonymous in the area where this incident occurred.

8. That the Applicant was not honest with the court on his application, stating that he is 15 years old born 4th May 2008. It is noted that if his date of birth is correct he is 18 years old.

9. That although the Applicant is presumed innocent, the Respondent prays that this Honourable Court exercise a balancing act as it relates to the Applicants right to liberty and public safety and order.

10. That the Applicant is charged with a serious offence and given the severity of the penalty that is attached, if the Applicant is admitted to bail, coupled with the cogency of the evidence, the Respondent verily believes that the applicant will either abscond or fail to appear for his trial.

[3.] Counsel for the Respondent, in his oral submissions advanced the following in objection to the Application for Bail:

- (a) The anonymous witness according to his statement knows both the defendant and the deceased;
- (b) When someone of tender age firing at people like that with firearms, we ask the court to take into consideration the public well-being as well as safety;
- (c) We cannot have our young men acting in this manner, the court has to be concerned with the amount of crime on our streets;

- (d) Protection of the defendant who is housed at the Bahamas Department of Corrections, Counsel for the Respondent submits that it is in the defendant's best interest to remain in custody from the possibility of retaliation as well as for the protection of the public;
- (e) Finally, Counsel for the Respondent submitted that they rely on the contents of the Affidavit filed in response.

Applicant's Response

[4.] In response, Counsel for the Applicant, reiterated that there was nothing to support the claims advanced on behalf of the DPP furthermore, the court can place conditions to have him monitored.

LAW AND ANALYSIS

[5.] The Applicant is presumed to be innocent of all charges unless and until he has been convicted. By virtue of **Article 20(2)(a)** of The Constitution of The Bahamas:

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

[6.] Furthermore, **Article 19(1)** provides as follows:

“19.(1) No person shall be deprived of his personal liberty save as may be authorized by law in any of the following cases-

(a) In execution of the sentence or order of a court, whether established for The Bahamas or some other country, in respect of a criminal offence of which he has been convicted or in consequence of his unfitness to plead to a criminal charge or in execution of the order of a court on the grounds of his contempt of that court or of another court or tribunal;

(b) In execution of the order of a court made in order to secure the fulfilment

of any obligation imposed upon him by law;

(c) For the purpose of bringing him before a court in execution of the order of a court;

(d) Upon reasonable suspicion of his having committed, or of being about to commit, a criminal offence;

(e) In the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;

(f) For the purpose of preventing the spread of an infectious or contagious disease or in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community;

(g) For the purpose of preventing the unlawful entry of that person into The Bahamas or for the purpose of effecting the expulsion, extradition or other lawful removal from The Bahamas of that person or the taking of proceedings relating thereto; and without prejudice to the generality of the foregoing, a law may, for the purposes of this subparagraph, provide that a person who is not a citizen of The Bahamas may be deprived of his liberty to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within The Bahamas or prohibiting him from being within such an area.

(2)...

(3) Any person who is arrested or detained in such a case as is mentioned in subparagraph (1)(c) or (d) of this Article and who is not released shall be brought without undue delay before a court; and if any person arrested or

detained in such a case as is mentioned in the said subparagraph (1)(d) is not tried within a reasonable time he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.”

[7.] Section 4(2) of the Bail Act, provides:-

“(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 of 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 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 here 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 purpose of subsection (2)(a) and (b) –

(a) without limiting the extent of a reasonable time, a period of three years from the date of 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 a reasonable time.

(2B) For the purpose 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.”

[8.] The factors the Court must take into account when considering the grant of bail is set out

in **Part A** of the First Schedule to the **Bail Act**, which provides as follows:

“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 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.] Having considered the factors set out in Part A of the First Schedule as well as the provisions of section 4(2), I duly note the court role in **Jonathan Armbrister v A.G. SCCrim App. No.145 of 2011** where at John JA at paragraph 13 states:

“The seriousness of the offence with which the accused is charged and the penalty which is likely to entail upon conviction, has always been and continue to be an important consideration determining whether bail should be granted or not. Naturally, in cases of murder and other serious offences, the seriousness of the offence invariably weighs heavily on the case against the grant of bail.”

[10.] In **Jeremiah Andrews vs. The Director of Public Prosecutions SCCrApp No. 163 of 2019** at paragraph [30] states:

“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.”

[11.] I note that while the possible penalty likely to follow a conviction raises a real possibility of the Applicant not appearing for trial, no evidence direct or otherwise was provided that he will not appear for his trial.

- [12.] It is not the duty of a Judge when hearing a Bail Application to conduct a mini trial of the evidence.

In **Cordero McDonald v. The Attorney General SCCrApp. No. 195 of 2016** at paragraph 16 the Court of Appeal echoed the following:

“34. As this Court has said on many occasions, it is not the duty of a judge considering a bail application to decide disputed facts or law. Indeed, 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 by the appellant, such as to justify the deprivation of his 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.] The prosecution has the duty to try the accused within a reasonable time, and the court must balance the matters advanced by both sides and determine whether there has been or is likely to be unreasonable delay in bringing the applicant to trial: Further considerations was espoused in **Richard Hepburn and The Attorney General SCCrApp. No. 276 of 2014** where Allen JA at paragraph 11 noted that

“The general right to bail clearly requires judges on such application, to conduct realistic assessment of the right of the accused to remain at liberty and the public’s interests as indicated by the grounds prescribed in Part A for denying bail. Ineluctably, in some circumstances, the presumption of innocence and the right of an accused to remain at liberty, must give way to accommodate that interest.”

- [14.] In considering the cogency of the evidence, 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."

- [15.] Having reviewed the evidence before me, I note that the Applicant was said to be identified by an anonymous witness as the person allegedly responsible for shooting the deceased. Notwithstanding this, the Applicant is entitled to the presumption of innocence.
- [16.] The Respondent, through the Kelly Affidavit, avers that there is nothing peculiar about the Applicant's detention to suggest the same is unjustified or unfair, and further submits that the Applicant is not a fit and proper candidate for the grant of bail.
- [17.] Having considered the circumstances of the present application, the relevant law, and the submissions of the parties, I am satisfied that the Applicant is a fit and proper candidate for admission to bail.
- [18.] Therefore, the Court is prepared to exercise its discretion and grant the Applicant bail with the following conditions:
- A) Bail is granted to the applicant in the sum of \$20,000 with 2 or 3 suretors.
 - B) The Applicant is to be fitted with an Electronic Monitoring Device.
 - C) The Applicant is subject to a curfew from 8 p.m. to 8 a.m.
 - D) The Applicant is to sign in at the Quakoo Street Police Station every Monday, Thursday and Saturday before 6 p.m.

Dated 16th June 2026

The Honourable Madam Justice Jeannine Weech-Gomez