COMMONWEALTH OF THE BAHAMAS **2024/CRI/BAL/00032**

IN THE SUPREME COURT

Criminal Division

B E T W E E N

BARDON MAJOR A.K.A. "BRANDON MAJOR"

Applicant

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Honourable Madam Justice Renae McKay

Appearances: Mr. Geoffrey Farquharson for the Applicant
Ms. Davina Pinder for the Respondent

Hearing Date: 9th July 2026

BAIL RULING

Criminal Law — Bail — Armed Robbery — Presumption of innocence — Part C offence—Bail (Amendment) Act, Ch. 103 — Allegedly committing another offence whilst on bail —Whether the Applicant is a fit and proper candidate for admission to bail at this time

Introduction

1. The Applicant herein, Bardon Major, also known as Brandon Major, is twenty-three (23) years old.

2. He filed a Summons and an Affidavit in support thereof on 13th March 2026 with respect to a bail application.

3. He is charged with one count of Armed Robbery, contrary to section 339(2) of the Penal Code, Chapter 84 and is currently remanded at the Bahamas Department of Correctional Services ("BDOCS").

4. The Director of Public Prosecutions ("DPP") opposes the Applicant's application by filing an Affidavit in Response of Calnan Kelly ("Kelly Affidavit") on 7th April 2026.

Applicant's Evidence

5. The Applicant relied on his Affidavit which deposes that:-

   i. I am the Applicant herein.
   ii. I was born on the 31st January 2003.
   iii. On the 11th of November 2025, I appeared before the Magistrates' Court No.9, Nassau Street, on the charge of Armed Robbery.
   iv. I was informed by the Court that I was at liberty to make an application for bail to this Honourable Court.
   v. The charges arose in the following circumstances.
   vi. At the time of the alleged offence, I was driving a rental car which I had procured for my transportation.
   vii. Acquaintances of mine, who were aware that I had a rental, would ask me, from time to time, to assist them with transportation.
   viii. On the day in question, I was called by my acquaintances who asked if I could give them a ride. But being completely unaware of any unlawful actions by these persons or of the allegation contained in this matter, I agreed to do so.
   ix. As can be confirmed from the record of my monitor, I did this pick up at a totally different place and time from that associated with this allegation.
   x. And clearly, I would never have had anything to do with any such activity while wearing a monitor which would provide, essentially a confession, to the offence.
   xi. Accordingly, I have nothing to fear from the upcoming prosecution and am fully confident of mounting a successful defence thereto.
   xii. And in the words of the Justice Archer Minns in her ruling of the 20th of March 2024 at para.12, "the Applicant …is considered a person of good character.
   xiii. I am completely innocent of the allegation laid against me.
   xiv. I have no previous conviction.
   xv. Accordingly, I make this Affidavit to support an application for Bail.
   xvi. There is no credible evidence that I would, nor would I, abscond, reoffend, interfere with witnesses, or undermine the administration of justice if admitted to bail.
   xvii. The contents of this Affidavit is true.

Respondent's Evidence

6. The Kelly Affidavit principally deposes that:-

   i. The Applicant has a previous conviction for which he served a custodial sentence and is not of good character.
   ii. The Applicant is not a fit and proper candidate for bail.
   iii. There is cogent evidence that links the Applicant to alleged offences that occurred on Friday 24th October 2025, Francis Ansah, the complainant indicated that two unknown males armed with handguns entered his business establishment where they robbed him of a deposit bag contained $21,000 in cash and cheques.
   iv. The Applicant during his Record of Interview (ROI) dated Saturday 1st November 2025 that he committed the offences of Armed Robbery. The Applicant admitted

to being the driver of a gray Nissan Noted ant hat he was contacted by an individual known to him and asked to pick up another male to commit an armed robbery.

v. The Applicant is alleged to have committed the offence while on bail, which would be a violation of his bail conditions. The report from Migrafill implicates and places the Applicant in the area at the time of the offense.

vi. Although the Applicant is presumed innocent, the Respondent prays this Honourable Court exercise a balancing act as it relates to the Applicant's right to liberty and public safety and order.

vii. The Respondent very believes that the Applicant is not a man of good character, the evidence against the Applicant is cogent and there are no conditions that can be imposed that will eliminate or diminish the risk of the Applicant interfering with witnesses, obstructing the course of justice in relation to himself or any other person and as well committing further offenses while on bail or he may abscond.

viii. The Respondent verily believes that given the nature and circumstances of the evidence there is a need to protect the safety of the witnesses, the public and public order, as there seems to be an escalation in the level of criminal activity.

ix. There is nothing peculiar about the Applicant's circumstances that would signified that his continued detention is unjustified and that the Applicant is not a fit and proper candidate for bail at this time.

Issue

7. The issue for my determination is whether the Applicant is a fit and proper candidate for admission to bail at this time.

Law and Analysis

8. Bail is the conditional release of an accused person who has been charged with an offence, upon terms set by the Court to ensure attendance at court appearances and at trial.

9. **Section 4(2) of the Bail Act (Amended), Chapter 103**, provides the statutory framework governing bail in respect of Part C offences as follows:-

> **"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) and (b) –
(a) without limiting the extent of a 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) 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."

10. Part C offences must be considered together with Part A of the First Schedule to the Bail Act (Amended). It sets out the relevant factors to be considered in a bail application as follows:-

(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."

11. Accordingly, in considering bail, I must balance the statutory provisions of the Bail Act (Amended) against the fundamental rights of an accused person under **Article 20(2)(a) of the Constitution of The Bahamas**, which provides:-

"Every person who is charged with a criminal offence –

(a) shall be presumed to be innocent until he is proved or has pleaded guilty."

12. I must also have regard to **Article 19(1)(d) of the Constitution**, which protects personal liberty and permits its deprivation only where there is reasonable suspicion that the person has committed an offence.

13. In determining whether the Applicant should be admitted to bail, I must undertake a careful balancing exercise. This involves me weighing his presumption of innocence and right to liberty against the relevant statutory considerations identified in Part A of the Schedule to the Bail Act (Amended).

14. In undertaking that exercise, I am mindful that, at this stage, I am not required to embark upon a fact-finding mission to determine the guilt or innocence of the Applicant. Nor should I place such emphasis on the strength and cogency of the evidence against him that it overrides my discretion in determining whether bail ought to be granted or refused. As outlined in **Stephon Davis v DPP SCCrApp No. 20 of 2023**, at paragraph 18:

> **"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." [Emphasis added]**

15. Further, the Court of Appeal has firmly stated in **Stephon Davis v DPP SCCrApp No. 108 of 2021** that a bail application must not simply be refused because the defendant was on bail when he allegedly committed a similar offence. The evidence upon which the Prosecution relies in seeking the refusal of bail for the new offence must be assessed.

Public Safety and Public Order

16. In **Jevon Seymour v DPP SCCrApp.No.115 of 2019**, Justice Crane-Scott JA (as she then was) identified the type of evidence that may properly assist the Court in determining whether an accused poses a threat to public safety or public order. At paragraph 68, her Ladyship pronounced:-

> **"If the appellant was in fact a threat to public safety or public order; or if there was evidence of specific threats which had been made against the witnesses, Perry McHardy's affidavit should have included the necessary evidence of his propensity for violence for the judge's consideration. Such evidence might have included for example, any prior convictions (if any) for similar offences; or evidence of pending charges for violent or firearm offences; or again,**

> **<u>evidence for instance, of any known or suspected gang affiliation.</u> No such evidence was placed before the learned judge and the absence of such evidence, stood in stark contrast with the evidence which the appellant had placed before the judge of his good character, strong family and community ties and the fact that he had a long and unblemished record of service within the BDF." [Emphasis added]**

17. Further, in **Treyvar Taylor v DPP SCCrApp No. 139 of 2024**, the Court of Appeal upheld the decision of Braithwaite J refusing bail on the basis that the accused posed a threat to public order. At paragraph 33, His Lordship stated:-

> **"Therefore, in weighing the presumption of innocence given to the Applicant with the need to protect the public order and the public safety the Court is of the opinion that the need for public safety and public order is of the highest importance and in the present circumstances cannot be ignored."**

Decision

18. The Applicant was, at the material time, on bail for an alleged murder committed on 27th January 2024. He was admitted to bail for that offence on 8th April 2025, subject to conditions, including that he be fitted with an Electronic Monitoring Device ("EMD").

19. The present allegation concerns an armed robbery said to have been committed on 24th October 2025. It is not in dispute that, at that time, the Applicant was being electronically monitored in relation to the earlier charge.

20. In his Affidavit, the Applicant avers that, on the day in question, he received a call from acquaintances asking him to give them a ride in a rental vehicle. He further avers that he collected them at a time and location materially different from the time and place of the armed robbery. On his account, he was not at the scene of the armed robbery and was not involved in it.

21. The EMD places the Applicant's movements within the vicinity of the armed robbery. The mere fact that the Applicant was in the vicinity of the armed robbery alone does not mean he participated in the armed robbery. However, when considered together with the Applicant's Affidavit, that evidence gives rise to a reasonable suspicion that he may have participated in the alleged offence. The fact that he was electronically monitored does not, on the evidence presented before me, remove the concern arising from his presence near the armed robbery and the timing of his movements.

22. At this stage, I am not required to make any findings of fact or to determine the Applicant's guilt or innocence. However, in assessing his application for bail, I am entitled to consider

the nature and apparent cogency of the evidence relied on by the Prosecution, including the EMD and the circumstances surrounding the Applicant's asserted movements.

23. In my view, the evidence discloses more than a bare allegation. It provides a sufficient basis for reasonable suspicion that the Applicant may have participated in the alleged armed robbery while already on bail for a serious offence and while being electronically monitored. This is a significant factor in assessing the risk he may pose if admitted to bail.

24. I have considered whether conditions could adequately manage the risk. Conditions such as reporting, a curfew, or continued electronic monitoring may assist in securing the Applicant's attendance at trial. However, I am not satisfied that they would sufficiently protect public safety and public order in the circumstances of this instant matter.

25. Having regard to the seriousness of the alleged offence, the strength and cogency of the evidence and the fact that the Applicant was already on bail for another offence, and the reasonable suspicion arising from his movements in the vicinity of the armed robbery, I am satisfied that the deprivation of his liberty is justified at this stage in the interests of public safety, public order and the proper administration of justice.

26. The Applicant, I find, is not a fit and proper candidate for bail at this time. I deny his application, and he is to remain detained at the BDOCS.

27. Should the circumstances change, he has the liberty to renew his application and a right to appeal this decision.

Dated the 9th day of July, A.D. 2026

Justice Renae McKay