COMMONWEALTH OF THE BAHAMAS **2026/CRI/BAL/00006**

IN THE SUPREME COURT

Criminal Division

B E T W E E N

JAMES JONES

Applicant

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Honourable Madam Justice Renae McKay

Appearances: Ryszard Humes for the Applicant
Timothy Bailey and Valentino Bowe for the Respondent

Hearing Date: 23rd April, 2026

BAIL RULING

Criminal Law — Bail — Dangerous Drugs — Unlicensed firearm and ammunition — Presumption of innocence — Part B and D offences—Bail (Amendment) Act, Ch. 103 — Whether the Applicant is a fit and proper candidate for admission of bail at this time

INTRODUCTION

[1.] By a Summons dated 24th December 2025, the Applicant herein, James Jones, applied to the Court for bail.

[2.] The Applicant, a 44-year-old Bahamian citizen, is charged with the following offences:

i. two counts of possession of dangerous drugs with intent to supply, contrary to section 22(2)(b) of the Dangerous Drugs Act, Chapter 228;
ii. two counts of conspiracy to import dangerous drugs, contrary to sections 30(1) and 15(6) and punishable under section 29(2)(b) of the Dangerous Drugs Act, Chapter 228;
iii. two counts of conspiracy to possess dangerous drugs with intent to supply, contrary to sections 30(1) and 22(1) and punishable under section 29(2) of the Dangerous Drugs Act, Chapter 228;

iv. one count of possession of an unlicensed firearm, contrary to section 5(b) of the Firearms Act, Chapter 213; and
v. one count of possession of ammunition, contrary to section 9(2)(a) of the Firearms Act, Chapter 213.

[3.] The Applicant was arraigned on 24th December 2025 before Senior Magistrate Raquel Whyms in Court No. 5 on the aforementioned charges. He was denied bail.

[4.] The Applicant is remanded to the Bahamas Department of Correctional Services ("BDOCS").

[5.] The Director of Prosecution ("The Respondent") filed the Affidavit of Karen Macvean ("Macvean Affidavit") on 28th January 2026, objecting to the Applicant's bail.

[6.] On 23rd March 2025, the Court heard submissions from counsel for the Applicant and the Respondent.

ISSUE

[7.] The issue for determination is whether the Applicant is a fit and proper candidate for bail at this time.

SUBMISSIONS

Counsel for the Applicant

[8.] Counsel for the Applicant, Mr. Humes, submitted that the Applicant has demonstrated a history of complying with bail conditions arising from a similar offence charged with in the Magistrate's court. He did not abscond, and his bail was not revoked while he was on bail for that offence.

[9.] The Magistrate Court's denial of the Applicant's bail was based on a present application already before the Supreme Court; therefore, the learned Magistrate considered it more prudent for the Supreme Court to determine the bail application instead.

[10.] Mr. Humes submitted that the offences with which the Applicant is charged are serious, but summary in nature, and that seriousness alone should not be a bar to refusing bail, especially since courts have granted bail for more serious matters, including murder.

[11.] The Applicant has connections to the jurisdiction: he is a Bahamian citizen and a resident of Mangrove Cay, Andros. There is a police station in Mangrove Cay, and the Applicant could sign in daily if required and be electronically monitored. Therefore, conditions could be imposed to ensure the Applicant attends his trial.

[12.] The Applicant is presumed innocent, and he desires to continue fishing to support his family.

[13.] He submitted that the Applicant has not been convicted of any firearm or ammunition offence, and no firearm or ammunition was allegedly recovered from the Applicant.

[14.] He also submitted that, as alleged by the Respondent, the Applicant is not a boat captain but a fisherman by profession.

Counsel for the Respondent

[15.] Counsel for the Respondent, Mr. Bailey, submitted that, notwithstanding the Applicant's compliance with the bail conditions of the Magistrate's Court in his first matter, that compliance did not benefit the Applicant. Rather, it showed that the Applicant has a propensity to commit offences while on bail, as he is presently arraigned before another Magistrate's Court for a similar offence.

[16.] He further submitted that the quantity and value of the suspected cocaine and marijuana, together with a firearm and ammunition, create a strong incentive for the Applicant to abscond and not appear for trial.

[17.] Additionally, the Applicant who has been recently re-arraigned in the Magistrate's Court has a pending matter, which he argued increased the risk of flight. The Applicant lives in Andros, which Mr. Bailey described as the largest island in The Bahamas, with many opportunities to abscond. As a boat captain, the Applicant can navigate a vessel beyond Bahamian waters, thereby evading justice.

[18.] Concluding, the Prosecutor submitted that the Applicant was apprehended with three other men and that the large quantity of dangerous drugs found on the vessel, his alleged boating ability, and the value of the dangerous drugs provide an incentive for him to abscond. Accordingly, in all the circumstances, the court should not exercise its discretion to grant bail to the Applicant.

LAW AND ANALYSIS

[19.] Bail is the conditional release of a person charged with an offence, pending trial or further court appearances, on terms set by the court to ensure the person's attendance and to protect the public or the administration of justice.

[20.] Under Article 20(2) of the Constitution, every person charged with a criminal offence is presumed innocent unless and until he is proved guilty or has pleaded guilty.

[21.] Additionally, Article 19(1)(b) of the Constitution provides that a person must not be deprived of personal liberty, except on reasonable suspicion of having committed a criminal offence.

[22.] The Applicant is charged with possession of dangerous drugs with intent to supply, conspiracy to import dangerous drugs, possession of an unlicensed firearm and possession of ammunition, which are serious.

[23.] The Court is satisfied that the evidence adduced by the Respondent in the Macvean Affidavit is cogent, compelling, and sufficient to raise a reasonable suspicion of the Applicant's involvement in the charged offences.

[24.] **Section 4(1) of the Bail (Amendment) Act**, Chapter 103, outlines the following in relation to offences outlined under Part B of the First Schedule:

> **(1) Notwithstanding any other enactment, where any person is charged with an offence mentioned in Part B of the First Schedule, the Court shall order that that person shall be detained in custody for the purpose of being dealt with according to law, unless the Court is of the opinion that his detention is not justified, in which case, the Court may make an order for the release, on bail, of that person and shall include in the record a statement giving the reasons for the order of release on bail:**
>
> **Provided that, where a person has been charged with an offence mentioned in Part B of the First Schedule after having been previously convicted of an offence mentioned in that Part, and his imprisonment on that conviction ceased within the last five years, then the Court shall order that that person shall be detained in custody.**

[25.] Also, Part B of the First Schedule further engages **section 4(4) of the Bail (Amendment) Act** that states as follows:

> **(4) Notwithstanding the foregoing provisions of this section or any other enactment, the provisions of subsection (1) relating to bail, shall apply to any person charged with — (a) conspiracy to export dangerous drugs, contrary to sections 14(7) and 29(1) of the Dangerous Drugs Act; (b) conspiracy to import dangerous drugs, contrary to sections 15(6) and 29(1) of the Dangerous Drugs Act; or (c) conspiracy to possess dangerous drugs with intent to supply, contrary to section 22(1) and (2)(a) and section 29(1) of the Dangerous Drugs Act, unless the Attorney-General in writing directs that a prosecution be commenced in respect of any offence mentioned in paragraphs (a) to (c), in which case the provisions of subsection (2) relating to bail shall apply to the person to whom the prosecution relates.**

[26.] In addition to sections 4(1) and 4(4) of the Bail (Amendment) Act, Part A of the First Schedule sets out the factors the Court is to have regard to in determining whether an accused should be granted or refused bail. Part A of the First Schedule 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 –**
> **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."

[27.] The grant of bail is not an absolute or automatic right vested in an accused person. Rather, the authority to grant or deny bail rests within the Court's sound judicial discretion. In carefully balancing the accused's right with the interests of justice, the Court determines whether the accused is a fit and proper candidate for admission to bail. In making that determination, the Court is guided by the provisions of the Bail (Amendment) Act, Chapter 103, and the applicable principles established in relevant case law.

[28.] The offences with which the Applicant is charged, namely conspiracy to possess dangerous drugs with intent to supply, conspiracy to import dangerous drugs, and possession of dangerous drugs, fall within Part B of the First Schedule, whereas possession of an unlicensed firearm and possession of ammunition fall within Part D of the Schedule. In these circumstances, the Applicant is not entitled to bail as of right. The issue for determination is whether, having regard to the facts and circumstances of the Applicant's case, his continued detention is justified.

[29.] The Applicant was convicted in 2000 of possession of dangerous drugs with intent to supply and was sentenced to two years' imprisonment. This is a similar offence for which the Applicant is currently charged before the Court. However, there is no mandatory statutory bar arising from the Applicant's prior conviction, as the period of imprisonment imposed in respect of that conviction ended in 2002, well outside the five-year period contemplated by the aforesaid section of the Act. Accordingly, the prior conviction does not require the Applicant's detention in custody. Nonetheless, other factors outlined under Part A of the First Schedule must be considered to determine whether the Applicant is a fit and proper candidate for bail at this time. The Applicant also has a 2015 matter before Magistrate Court No. 8 for a similar offence to the one he is currently charged with.

Seriousness of the Offence and the Cogency of the Evidence

[30.] In **Jeremiah Andrews v DPP SCCrApp No.163 of 2019**, the seriousness of the offence and the cogency of the evidence were considered relevant and important factors for the Court, but they were carefully weighed against other factors set out in the First Schedule, Part A, together with the evidence before the Court. At paragraph 30, the Court of Appeal stated as follows:

> 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. E.g., the applicant's resources, family connections, employment status, good character and absence of antecedents.

[31.] It must be noted that, in relation to the seriousness of the offence, in **Stephon Davis v DPP 2014/CRI/bail/00069,** I stated at paragraph 16 that the seriousness of the offence is not a "free-standing ground for the refusal of a bail application, yet it is another factor I consider in determining whether an accused would appear for trial." The Court of Appeal in the aforesaid case (**see: Stephon Davis v DPP SCCrApp.No.20 of 2023**) addressed the strong and cogent evidence that the Prosecution often recite as a "primary consideration" to deny an accused bail. Notwithstanding this evidence, their lordships indicated that it is not a critical factor in an application for bail. At paragraph 19, they pronounced:

> 19. "In our view, "strong and cogent evidence" is not a 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…"

[32.] The Respondent relied on Macvean's Affidavit, which deposes that the evidence against the Applicant is not only serious but also cogent. The cogency of the evidence, standing alone, is insufficient to justify refusal. Both are relevant, but neither is critical or determinative in the absence of other factors that warrant the Applicant's continued detention.

Burden of Proof

[33.] Although the applicable standard does not require proof beyond reasonable doubt, the burden rests on the Prosecution to satisfy the Court that the Applicant ought not to be admitted to bail. That burden cannot be discharged by mere assertion or bare allegation. Rather, the Prosecution must place before the Court sufficient evidence to justify the refusal of bail. This principle was discussed in **Jonathan Armbrister v. The Attorney General, SCCrApp No. 145 of 2011**, where Justice John observed at paragraph 17 as follows:

> 17. It must, however, be borne in mind that the onus is upon the Crown to satisfy the Court that the person ought not to be granted bail. In acknowledging that the strict rules of evidence are inherently inappropriate in deciding the issue whether bail should be refused, we sound the warning that a naked statement from the Prosecutor that "the witnesses are known to the appellant and so he is likely to interfere with them" without more, is unfair to the accused person and cannot stand alone.

[34.] Whether an accused ought properly to be admitted to bail is a matter in respect of which the burden rests upon the Prosecution. It is for the Prosecution to place before the Court sufficient

material to justify the continued deprivation of the accused's liberty pending trial and to satisfy the Court that there are proper grounds for refusing bail in accordance with the applicable legal principles.

Absconding

[35.] In **Alfred McKinney v DPP** (supra), addressing whether there was a risk that the Appellant, if admitted to bail, might abscond and thereby evade justice, Evans JA referred to the decision in Attorney General v Bradley et al SCCrApp. No. 57, 106, 106, 108, 116 of 2008, wherein Osadebay JA (as he then was) observed as follows:

> "**In a bail hearing it is for the prosecution to produce evidence to show why the defendant should not be released on bail**. The prosecution is not required to prove beyond reasonable doubt that the defendant would not report for his trial or to produce formal evidence to that effect. A prosecutor objecting to bail may state his opinion **based on the evidence** produced that if bail [sic] is granted the defendant, because of the circumstances, may fail to appear to take his trial or that given ball the defendant is likely to interfere with witnesses. A bail application is an informal inquiry and no strict rules of evidence are to be applied: R.V. Mansfield Justices, ex parte Sharkey [1985] QB. 613, Re Moles [1981] Crim. L. R. 170" [Emphasis Added]

[36.] The Macvean's Affidavit for the Respondent avers that, if granted bail, the Applicant is likely to abscond, given his resources. It is averred that the Applicant, together with three others, was apprehended by the United States Coast Guard in waters south of Cuba while aboard a vessel that had departed Negril, Jamaica, and was en route to The Bahamas, carrying a quantity of dangerous drugs and illegal firearms. On that evidence, the Applicant has the ability to operate a vessel, which increases the risk that a vessel could readily be used to facilitate his absconding. However, counsel for the Applicant challenged the Respondent's averment of the Applicant's ability to operate a boat and stated that the Applicant's Affidavit indicated he was simply a fisherman. The Court has considered this factor relevant, but this alone is not determinative of whether the Applicant's bail should be granted or refused.

[37.] The Applicant has a similar charge before another Magistrate's Court, was granted bail, and has fully complied with the bail conditions. Although the charges against the Applicant are serious, the maximum penalty the Magistrate's Court could impose if the Applicant is found guilty is seven (7) years.

DECISION

[38.] The Court must have regard to the totality of the evidence and all relevant statutory factors, including the seriousness of the offence, the cogency of the evidence, the risk of flight, the likelihood of interference with witnesses, the risk of further offending, and any threat to public safety or public order when deciding whether to grant or refuse the Applicant bail. No single factor is determinative.

[39.] The Court's task is to determine whether the evidence discloses real and substantial risks that cannot be adequately mitigated by appropriate bail conditions. If such risks can be sufficiently managed by conditions, refusal of bail is not warranted; if not, continued detention of the Applicant may be appropriate.

CONCLUSION

[40.] Having considered all the relevant factors, the totality of the evidence, and the submissions made by counsel, the Court must balance the Applicant's rights with the interests of justice, and this balancing must be done judicially, not capriciously. The Court is satisfied that any identified risks may be sufficiently addressed by imposing strict bail conditions requiring the Applicant to attend all court appearances until the conclusion of his trial. In doing so, the Court exercises its discretion to grant the Applicant bail in the sum of $50,000.00, with two or three sureties. The grant of bail is also subject to the following conditions:

i. The Applicant shall surrender his passport or travel documents.
ii. The Applicant shall be fitted with an effective, properly functioning electronic monitoring device.
iii. The Applicant shall report to the Mangrove Cay Police Station by 6:00 p.m. on Mondays, Wednesdays, and Fridays.
iv. The Applicant shall remain at his residence, Mangrove Cay, between 6:00 p.m. and 7:00 a.m. daily.
v. The Applicant shall not, whether acting himself or through another person, interfere with the Prosecution's witnesses.

[41.] Any breach of the foregoing conditions shall result in the Applicant's bail being revoked.

Dated the 23rd day of April, A.D. 2026

Justice Renae McKay