COMMONWEALTH OF THE BAHAMAS **CRIM/BAL 00287/ 2020**

IN THE SUPREME COURT

Criminal Division Bail

BETWEEN

LEANDER C BELL

Applicant

AND

THE DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

RULING ON BAIL APPLICATION

Before: **The Honourable Mr Justice Darron Ellis**

Appearances: Ian Jupp of Counsel for the Applicant;

Tylah Murray of Counsel for the Respondent

Hearing date: 7 July 2026

BAIL RULING

Introduction

[1.] This is a renewed application by Leander C. Bell for bail pursuant to **section 3** of the **Bail Act, Chapter 103**, as amended **(Bail Act)**. The Applicant is charged on a Voluntary Bill of Indictment No. 180/8/2025 with Attempted Murder, Armed Robbery and Possession of a Firearm with Intent to Endanger Life. The prosecution alleges that the offences occurred on 5 April 2025 while the Applicant was already on bail and wearing an electronic monitoring device.

[2.] The Applicant made the application by way of a Summons filed on 15 June 2026 and supported by two affidavits. The Applicant has pleaded not guilty to the current charges, maintains his innocence, and submits that he is a fit and proper person for bail.

[3.] The Respondent filed an Affidavit in Response on 22 June 2026 opposing bail. The Respondent submits that sufficient and cogent evidence supports the charges and asks the Court to consider the nature and seriousness of the alleged offences, public safety, the Applicant's antecedents, separate pending charges, and the fact that the present charges occurred while the Applicant was on bail for other charges.

[4.] The application is refused. Having considered the presumption of innocence, the Applicant's personal circumstances, the apparent strengths and weaknesses of the prosecution case, the allegation that the present offences were committed while the Applicant was on bail, his antecedents and pending matters, and the possibility of stringent conditions, I am satisfied that there are substantial grounds for believing that, if released, he would commit an offence while on bail. The need to protect public safety and public order is a primary consideration.

The Evidence and the Parties' Positions

[5.] The Applicant is a Bahamian citizen born on 22 October 1994 and was employed as an auto mechanic before his detention. In his affidavit filed on 15 June 2026, he relies upon his local residence, employment, family ties and the availability of two proposed sureties. He promises to attend court, abstain from offending, avoid witnesses and obey any conditions imposed.

[6.] The Applicant attacks the strength of the identification evidence. He says the virtual complainants described two masked perpetrators as approximately five feet seven inches tall and dark-skinned, whereas he is approximately six feet four inches tall and light-skinned. He says the witnesses could not identify the perpetrators; searches of his home, yard, and vehicles produced no incriminating evidence; he does not know the co-accused or the virtual complainant; and that police returned a burgundy sport utility vehicle after ruling it out as the suspect vehicle.

[7.] He also disputes any gang affiliation, any risk of absconding, interference or retaliation, and the suggestion that public safety would be compromised. He says that his older convictions are spent and non-violent, that a pending armed-robbery matter has been dismissed, and that a pending murder matter is likely to be dismissed. He further relies upon the hardship caused by detention, including his inability to work and support his family and his fiancée's need for dialysis treatment.

[8.] The Respondent relies upon the affidavit of Khaula F. Reid filed on 22 June 2026 and the exhibited material. The Respondent identifies five convictions: abetment to unlawful sexual intercourse in 2017; three stealing convictions in 2018; and shopbreaking in 2018. It also identifies a murder matter and an armed-robbery matter as pending.

[9.] The prosecution case is circumstantial. It says the electronic-monitoring location report placed the Applicant in the area where the alleged offences occurred, near Third Street and Robinson Road, at approximately 11:00 a.m., and stationary between 11:23 a.m. and 11:26 a.m. at a property on Robinson Road east of the Mark A. Turnquest MBA Business Centre, adjacent to Ida Street. According to Detective Constable 4022 Thorn Farrington, footage from China Town Resources showed the Complainant entering the parking lot at about 11:23 a.m., followed by a red Jeep matching the vehicle used in the incident. A person wearing a red hoodie allegedly attempted to rob her before she entered the establishment.

[10.] The Respondent further relies upon information attributed to Reneka Bain, described as a friend of the Applicant. She allegedly said that the Applicant called her on 5 April 2025 and, at approximately 12:25 p.m., arrived at her yard in a heavily tinted red Nissan Jeep without a licence plate, handed her the keys and asked her to hold the vehicle. The Respondent submits that this evidence, viewed together with the monitoring data, raises a reasonable suspicion that the Applicant committed the charged offences.

[11.] The Respondent opposes bail because of the seriousness of the charges, the Applicant's antecedents and pending matters, the alleged commission of the offences while the Applicant was already on bail, and the resulting risk of further offending and danger to the public.

Issue

[12.] The issue is whether the Applicant is a fit and proper person to be admitted to bail.

The Law and Analysis

[13.] **Article 20(2)(a)** of the **Constitution** guarantees that every person charged with a criminal offence shall be presumed innocent until proved guilty or until he has pleaded guilty. Pre-trial detention is not punishment, and the Court must not approach a bail application as though guilt has already been established. **Article 19(1)(d)** permits the deprivation of personal liberty upon reasonable suspicion of a person having committed, or being about to commit, a criminal offence. **Article 19(3)** further addresses the release, with or without conditions, of a person who is not tried within a reasonable time.

[14.] The present charges fall within **Part C** of the **First Schedule** to the **Bail Act**. By **section 4(2)** of the **Bail Act**, bail may be granted only where the Supreme Court or the Court of Appeal is satisfied that the accused has not been tried within a reasonable time, is unlikely to be tried within a reasonable time, or should be granted bail having regard to all relevant factors, including **Part A** of the **First Schedule** and **section 4(2B)**. Under **section 4(2A)**,

without limiting what may otherwise be reasonable, three years from arrest or detention is deemed a reasonable time, excluding delay caused by the accused.

[15.] **Section 4(2B)** of the **Bail Act** makes the Applicant's character and antecedents, the need to protect public safety or public order and, where appropriate, the safety of the alleged victim, primary considerations. **Part A** of the **First Schedule** to the **Bail Act** requires the Court to consider whether there are substantial grounds for believing that the accused would fail to surrender, commit an offence while on bail, interfere with witnesses or obstruct justice; whether he was previously released on bail and later charged with a similar offence or one punishable by more than one year's imprisonment; and the nature and seriousness of the offence and the nature and strength of the evidence.

[16.] In **Jonathan Armbrister v Attorney General**, SCCrApp No. 145 of 2011, the Court of Appeal reaffirmed that bail is not to be withheld as punishment. Relevant considerations include the charge, the available evidence, the likely sentence upon conviction, the accused's record, the prospect of interference with witnesses and the probability of attendance at trial. Seriousness matters, but it is not decisive on its own.

[17.] A bail hearing is not a trial of the indictment. In **Cordero McDonald v Director of Public Prosecutions**, SCCrApp No. 121 of 2023, the Court of Appeal explained that the bail judge does not decide disputed facts or undertake a forensic examination of the evidence. The question is whether the evidence raises a reasonable suspicion of the commission of the offences sufficient to justify arrest, charge and detention, after which the statutory bail factors must be assessed. See also **Attorney General v Bradley Ferguson et al.** SCCrApp Nos. 57, 106, 108 and 116 of 2008.

[18.] The Crown bears an evidential burden to adduce material capable of establishing substantial grounds for the risks identified in **Part A**. Bare assertion is insufficient. In **Jevon Seymour v Director of Public Prosecutions**, No. 115 of 2019, *Crane-Scott JA* stated at paragraph 65:

> "Paragraph (a) of the First Schedule to the Bail Act places an evidential burden on the crown to adduce evidence (i.e. substantial grounds) which is capable of supporting a belief that the bail applicant 'would' if released on bail, 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. The Crown's burden is only discharged by the production of such evidence.

[19.] In **Jeremiah Andrews v Director of Public Prosecutions**, Appeal No. 163 of 2019, *Evans JA* (as he then was) stated:

> "In order to properly assist the Court, parties are required to provide evidence which will allow the Court to determine whether the factors set out in Part A of the

> First Schedule to the Bail Act s 4(2B) exist. We note that all too often the affidavits supplied by the Crown make bare assertions that there is a belief that if the Applicant is granted bail he will not appear for trial; will interfere with witnesses or will commit other crimes. These assertions are meaningless unless supported by some evidence."

[20.] Where there are reasonable grounds to infer that release may lead to absconding, interference with witnesses, or another identified statutory risk that bail conditions cannot adequately address, refusal is justified, as in **Hurnam v The State (Mauritius)** [2005] UKPC 49; [2006] 3 LRC 370, as applied in **Stephon Davis v Director of Public Prosecutions**, SCCrApp No. 108 of 2021.

[21.] I begin with the issue of delay. There is no evidence before the Court to support a finding that the Applicant has not been tried within a reasonable time or is unlikely to be tried within a reasonable time. The prosecution states that the offences occurred on 5 April 2025 and that the VBI was served in 2025. The application was filed in June 2026. The statutory three-year period has not expired, and no evidence of exceptional prosecutorial or institutional delay has been produced.

[22.] The Court next considers the nature and apparent strength of the Crown's case. The Applicant is entitled to challenge the prosecution case. The discrepancy between his physical appearance and the general description attributed to the masked perpetrators is important. So too are the alleged inability of eyewitnesses to identify the offenders, the absence of an incriminating recovery from his premises, and his assertion that a burgundy sport utility vehicle was investigated and returned. Those matters may assume considerable importance at trial.

[23.] They do not, however, dispose of the prosecution case at the bail stage. The Respondent's case is not confined to facial identification. It includes electronic-monitoring data placing the Applicant in the relevant area at the material time, video evidence said to show a red Jeep following the virtual complainant and an attempted robbery by a person in a red hoodie, and evidence that approximately one hour later the Applicant delivered a heavily tinted red Nissan Jeep without a licence plate to Ms Bain and asked her to hold it. Taken together, that material raises more than a bare assertion and can raise a reasonable suspicion that the Applicant was involved.

[24.] The Applicant's hearsay objection to the detective's account does not require the Court to disregard it on a bail application. The Court is not determining admissibility at trial or making final findings on disputed evidence. The weight to be attached to the account is necessarily provisional. The alleged return of a burgundy vehicle, even if accepted, does not, without more, establish that the red Jeep described by the prosecution was the same vehicle or that the Applicant could not have used it.

[25.] I have not treated the Applicant's previous convictions as establishing guilt or as proof of a history of violence. The Respondent's description of all five convictions as demonstrating a history of violence is overstated. Most are dishonesty or property offences and all date from 2017 or 2018. Their age and nature reduce their weight. However, the Court has not been shown any other material establishing that they must be treated as legally erased. They remain relevant, though not decisive, to character and antecedents.

[26.] The pending murder and armed-robbery matters are allegations, not convictions. They cannot be treated as proof of criminal propensity. The Applicant says that the armed-robbery matter was dismissed and that the murder matter is likely to be dismissed. However, no dismissal order, docket, affidavit from the prosecuting authority or other independent confirmation was produced. On the present record, I give those pending matters limited weight and do not base my decision upon them.

[27.] The decisive consideration is the allegation that the present serious firearm offences were committed while the Applicant was already on bail and subject to electronic monitoring. That circumstance directly engages paragraphs **(a)(ii)** and **(f)** of **Part A** of the **First Schedule** of the **Bail Act**. It supplies an evidential basis, rather than speculation, for the conclusion that ordinary bail conditions may not restrain the risk of further offending.

[28.] The nature of the alleged conduct heightens that concern. Attempted murder, armed robbery and possession of a firearm with intent to endanger life involve an obvious and grave risk to life. Under **section 4(2B)** of the **Bail Act**, public safety and public order are primary considerations. The Court need not accept an unproved allegation of gang membership or rely on generalised concern about retaliatory killings to reach that conclusion. The alleged firearm conduct, the circumstances of the present charges and the existing bail status provide a case-specific foundation.

[29.] The Applicant's residence, employment, family ties and proposed sureties weigh in his favour. His fiancée's medical condition, if established, is a serious personal hardship and I do not minimise it. Those considerations may reduce the risk of absconding, and I am not satisfied on the present material that flight risk or witness interference, standing alone, would justify detention. They do not sufficiently address the distinct risk of further offending and the resulting danger to the public.

[30.] The Applicant's affidavits also contain unexplained inconsistencies. The first says that he lives by himself and has one five-year-old son who visits from time to time. The reply says that before arrest he lived with his fiancée and 'our very young children' and was the household's main breadwinner. Further, the first affidavit refers to a refusal of bail on 16 September 2024 in connection with charges described in terms similar to the present charges. However, the Respondent says the present offences occurred on 5 April 2025. These matters are not evidence of guilt, but they reduce the weight I can safely place upon the Applicant's unsupported personal assurances.

[31.] I have considered whether conditions could adequately manage the risk: substantial sureties, surrender of travel documents, frequent reporting, curfew, house arrest, non-contact provisions and continued electronic monitoring. The difficulty is that electronic monitoring is alleged to have been in operation when the present offences occurred, and the monitoring record itself forms part of the prosecution case. Increasing the financial obligation or reporting frequency would not adequately address the identified risk of serious further offending while the Applicant is already subject to court-imposed control.

[32.] The renewed application relies substantially upon the VBI material to challenge the prosecution case. I have considered that material independently and have not treated the earlier refusal as binding. Nevertheless, the new material does not eliminate the reasonable suspicion arising from the circumstantial evidence, nor does it amount to a material change of circumstance capable of displacing the identified risk to public safety.

Conclusion and Order

[33.] Having considered the evidence as a whole, I am satisfied that there are substantial grounds for believing that the Applicant's release would pose an unacceptable risk to public safety and public order. In reaching that conclusion, I have taken into account the Applicant's previous convictions; the multiplicity, nature and seriousness of the charges now pending against him; and the evidence that further serious allegations arose while he was on bail in relation to earlier matters.

[34.] I emphasise that the pending charges remain allegations and are not findings of guilt. They are, however, relevant, together with the Applicant's antecedents, to the statutory risk assessment required for this application. This approach is consistent with the Court of Appeal's reasoning in **Trevar Taylor v Director of Public Prosecutions**, SCCrApp. No. 139 of 2024, where *Turner JA* wrote at paragraph 35:

> "The Learned Judge explained the reason (at paragraph 23) of his decision, why he considered the appellant was deemed to be a threat to public order. His reasoning was that the appellant whilst on bail for charges of murder and attempted murder, and while being electronically monitored in relation to those charges, is alleged to have committed additional offences. Further, there is a significant risk that the appellant may fail to appear for his trial, as he has been charged for armed robbery and other serious offences of murder and attempted murder, which may possibly result in a conviction. As the Learned Judge could have imposed conditions to secure the appellant's attendance at trial, he indicated that no conditions could adequately protect public order, given that the appellant was already subject to wearing an EMD whilst on bail when he allegedly committed the current offences. In **Jevon Seymour v. The Director of Public Prosecutions** SCCrApp. No. 115 of 2019, at paragraph 68, *Crane-Scott, J.A.* stated:

> "68. 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, evidence for instance, of any known or suspected gang affiliation. 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."
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> In the Court's view, in the present appeal, the appellant's alleged commission of serious offences whilst on bail and under an EMD order provides us with clear evidence that the appellant is a threat to public order and is also a relevant factor to consider pursuant to paragraph (f) of the First Schedule of the Bail Act. The combination of pending charges for violent offences and the appellant's conduct whilst on bail justifies the decision by the Judge to refuse bail and to support his continued incarceration pending trial."

[35.] In **Trevar Taylor**, the Court held that an appellant's alleged commission of further serious offences while on bail and subject to electronic monitoring was clear evidence relevant to assessing whether he posed a threat to public order. The Court further held that the combination of pending violent-offence charges and conduct while on bail justified refusing bail where no condition could adequately protect public order. Balancing the Applicant's constitutional presumption of innocence and right to liberty against the statutory considerations, I am satisfied that, if released, he would commit an offence while on bail. The character and antecedent material, the fact that the current offences are alleged to have occurred while he was already on bail and electronically monitored, the seriousness of the firearm allegations, and the need to protect public safety and public order outweigh the matters advanced in favour of release.

[36.] I have given full weight to the Applicant's constitutional right to liberty, the presumption of innocence, the time he has spent in custody, his family and community ties, and his detailed proposal for conditional release.

[37.] The bail application is therefore refused. The Applicant shall remain in custody pending trial or further order of the Court. He remains at liberty to renew his application if there is a material change in circumstances, including substantial delay, a material alteration in the prosecution case, or reliable evidence resolving the status of the pending matters. Nothing in this ruling determines any issue reserved for trial.

[38.] The Applicant may appeal this decision to the Court of Appeal.

The Honourable Mr Justice Darron Ellis
Justice of the Supreme Court

Dated this 9th day of November 2026