

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT**

**CRIMINAL LAW DIVISION
2017CRI/bal/00099**

BETWEEN

SHAQUILE ONEAL MUNROE

Applicant

AND

THE DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

Before: The Hon. Madam Justice Renae McKay

**Appearances: Mr. Ryszard Humes for the Applicant
Mrs. Erica Ingraham for the Respondent**

Hearing Date: 17th November 2022

Ruling Date: 15th December 2022

RULING ON BAIL

1. On 17th November 2022 I heard the Applicant, Shaquille Munroe's bail application which was moved by way of his Summons and Affidavit in Support of Bail both filed 25th October 2022 (**the "Bail Application"**). The Respondent, by way of their Affidavit in Response filed 14th November 2022 objected to the Bail Application. The Applicant previously applied for bail but was denied by Hilton J. His Bail Application is now a fresh application before me for my consideration and determination. This is my ruling with respect to the same.
2. By his Bail Application, the Applicant, a 29 year old Bahamian citizen and resident of Cordeaux Avenue averred that he was charged with 1 count of murder, 1 count of attempted murder, 1 count of possession of an unlicensed firearm with intent to endanger life, 2 counts of attempted murder, 2 counts of possession of an unlicensed firearm, 2 counts of possession of a firearm with intent to prevent lawful arrest, 2 counts of possession of a prohibited weapon, one count of possession of ammunition and 1 count of causing damage.

3. His previous application was denied by Hilton J on 9th June 2022. He alleges that there has been a change in circumstances since as the alleged eye witnesses withdrew their statements which they had made to the police. The Applicant added that he had a previous conviction for possession of an unlicensed firearm and possession of ammunition for which he was imprisoned for 18 months in December 2019. The Applicant averred that he posed no danger to society and that the evidence against him was not cogent without the mentioned witnesses.
4. He added that he was not a flight risk, that he would not interfere with any of the witnesses nor the complainant and that he would abide by any conditions the Court would attach to his bail.
5. By the Affidavit of Inspector Demetrius Taylor filed 14th November 2022, the Respondent averred that the offences were of a serious nature which fell under Part C of the Bail Act. The Respondent noted that none of the witnesses who had made statements against the Applicant had formally requested that their statements be withdrawn therefore they were not officially withdrawn.
6. The Respondent explained that Rashad Sullivan's affidavit by which he wished to withdraw his statement, had no bearing on their case against him as there was more than one complainant and identifying witness in the matter. As for Kevin Mezadieu's affidavit, his withdrawal would also not affect their case against the Applicant as they would be relying on further evidence which could possibly connect the Applicant to the matters.
7. The Respondent averred that the Applicant's previous convictions showed that he had a propensity to commit offences of a similar nature. Additionally, while he was previously on bail he breached the condition to comply with his curfew when he was found outside of his residence around 2:45 a.m. Moreover, the offences for which he has now been charged allegedly occurred while he was on bail.
8. The Respondent averred that the Applicant should not be admitted to bail given the nature and seriousness of the offences which would lead to the need to protect the safety of the public or public order and the possible interference of witnesses.
9. Counsel for both parties made submissions on behalf of their respective positions. Counsel for the Applicant Mr. Humes stated that the Applicant was not suggesting that the Respondent had withdrawn the matter but were in fact stating that the witnesses had changed the content of what they had to say. In that regard, the cogency of the evidence was affected and therefore there was a change in circumstances. He made specific reference to the statement of Robert Delancy with respect to that of two men in hoodies with one who was running away.

10. With respect to the Applicant's previous convictions, Mr. Humes submitted that while they were of a similar nature, they were not the most serious charges against the Applicant such as murder and attempted murder. He contended that where there was a conviction, it shows that a person has shown up for his trial and saw it through to the end. There was nothing to suggest that he would abscond which was the primary consideration of the Court.
11. In relation to the claim that the Applicant had breached his bail conditions, Mr. Humes pointed out that it was open to authorities to charge the Applicant which they did not do. Moreover, the evidence of the charge was never tested. He went on to say that there was no material before the Court that would indicate that the Applicant would interfere with any of the prosecution's witnesses and that there were conditions that could be imposed to ensure that the Applicant appear before the Court.
12. Counsel for the Respondent, Mrs. Ingraham, clarified that the Bail Application was with respect to three separate counts of Murder, two counts of attempted murder plus another two counts of attempted murder, two counts of possession with a firearm with intent to endanger life in addition to another four counts of possession of a firearm with intent to endanger life, two counts of possession of a firearm with intent to resist lawful arrest and one count of damage.
13. She added that there was no change of circumstance that would warrant the Applicant being granted to bail. Any evidence in the matter would be considered during the Applicant's trials.

DISCUSSION

14. The Applicant has been charged with serious offences. In addition, some of the offences for which he is charged are similar offences for which he holds previous convictions. While the Applicant is presumed to be innocent until he is proven guilty, as is his constitutional right, this right can be stifled if the scales do not tip in his favor after considering the statutory factors as set out in the Bail Act.
15. I have considered the aforementioned statutory factors along with the facts of the Applicant's case. As for the nature and seriousness of the offence the Applicant is charged with multiple counts of murder, attempted murder, possession of an unlicensed firearm to endanger life in addition to possession of an unlawful firearm to resist arrest. These are all indeed serious offences.

16. The eyewitness evidence which the Applicant has argued was withdrawn, has not been formally withdrawn and is still evidence to be taken into consideration in my deliberation of his Bail Application. I therefore find that there is still sufficient evidence to link the Applicant with this commission of the offence.
17. With respect to the safety of the Applicant, there is no evidence that his safety is at risk nor is there any direct evidence that the safety of the public is at risk.
18. Moreover, in relation to the Applicant's unlicensed firearm and ammunition convictions, I rely on the case of *Lorenzo Wilson vs. The Director of Public Prosecutions SCCrApp No. 129 of 2020* which beginning at paragraph 19 states,

“19. As to the antecedents, it is not required to show that the appellant lives a habitual life of crime before taking his antecedents into account.

20. In this case, the appellant is 24 years old and has already been convicted of a criminal offence which was serious enough to serve 18 months imprisonment. That offence involved an unlicensed firearm and this offence also involves a firearm which was alleged to be used indiscriminately against members of the public on a public street.

19. The Court went on to indicate at **paragraph 21** that,

“In our view, it was not unreasonable for the judge to have found that the appellant was a danger and not a fit person to be granted bail”.

20. I note that in the instant application, the Applicant was sentenced to a term of imprisonment for his firearm and ammunition convictions and that similarly a firearm is also alleged to have been used in the commission of this offence.
21. Additionally, while his previous convictions are not similar in nature to that of Murder, the Court can nevertheless consider these in terms of his good character or lack thereof.
22. While I find that the Applicant is not a man of good character, this Court's assessment of the effect of these convictions, more particularly the firearm and ammunition convictions goes further.
23. In *Tyreke Mallroy vs. The Director of Public Prosecutions SCCrApp No. 142 of 2021*, a case where the Appellant had multiple previous convictions and was on bail for Armed Robbery when he was charged with Murder, at **paragraph 24** of the judgment, their Lordships stated:

In these circumstances this issue goes beyond whether the appellant will appear for his trial but turns on whether he is a threat to society. The learned judge's decision when read as a whole is based on his view articulated in paragraph 33 as follows: "33. 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 highest importance and in the present circumstances cannot be ignored."

24. Their Lordships went on to find that having regard to the Appellant's antecedents and the fact that he was arrested for the current offence while on bail there is a reasonable basis to perceive him as a threat to society and that as the evidence raised a reasonable suspicion of the commission of the offences by the appellant, it justified the deprivation of his liberty by arrest, charge, and detention pending trial.
25. In the present application I note that the Applicant does have a pending matter and is electronically monitored while on bail. I am of the view that the principle remains the same, in considering the effect of previous convictions, inclusive of a firearm and ammunition convictions, coupled with the allegations of the present offence being committed with the use of a firearm.
26. This, in my view is consistent with the Court of Appeal's position in Wilson which according to their Lordships, even if the Applicant did not live a habitual life of crime, his previous firearm and ammunition conviction coupled with the manner in which the present charge alleges it was used is sufficient evidence for the court on the assessment of a bail application, to find that the Applicant is a threat to public safety and order.
27. I therefore find that having regard to the evidence of the Applicant's prior convictions, his breach of his bail condition to comply with his curfew having been found outside of his residence around 2:45 a.m. moreover, the offences for which he has now been charged allegedly occurred while he was on bail and the issues ventilated above, that the Applicant is a threat to public safety and public order.

CONDITIONS

28. The imposition of conditions to ameliorate or mitigate the Court's concerns must be relevant to the issues at hand. I am mindful of the usual conditions which include reporting, electronic monitoring device ("EMD"), curfew, etc
29. Nevertheless, while those conditions can address the Courts concerns about securing the Applicant's attendance at trial (if that were an issue) as they deal with tracking one's geographical location, however, given the courts finding of the applicant being a threat to

public safety and order, in my view, these conditions would not be effective in addressing those concerns.

30. In the circumstances and having regard to the foregoing reasons I find that the Applicant is not a fit and proper candidate to be admitted to bail.

31. The Applicant's application for bail is denied.

Dated this 15th day of December 2022

The Hon. Madam Justice Renae McKay