

COMMONWEALTH OF THE BAHAMAS

**IN THE SUPREME COURT
(CRIMINAL DIVISION)
BAIL SIDE**

2015/CRI/BAL/00086

BETWEEN:

VINCENT ERROL NAIRN

-v-

THE ATTORNEY GENERAL

Before: The Hon. Madam Justice Indra Charles

Appearances: Mr. Ian Cargill for the Applicant

Mr. Eucal Bonaby for the Attorney General

Hearing Dates: 26 January 2016

REASONS FOR DENIAL OF BAIL

[Criminal Law – Armed Robbery - Application for bail – Seriousness of offence – Cogent evidence by Crown –Fingerprint Evidence - No Unreasonable Delay- Previous Conviction - Exercise of discretion to grant or withhold bail - Refusal to grant bail]

1. The Applicant, Vincent Errol Nairn is charged with three counts of armed robbery of an ASure Win location at Fire Trail Road in the Island of New Providence It is alleged that a firearm was used to rob the business establishment. He was arraigned on 2 March 2015 and his trial is fixed for 23 November 2017. The matter is being actively case managed with a view as not to compromise the trial date.

2. In his affidavit dated 1 December 2015, the Applicant deposed, among other things, that (i) he is not guilty and he will be defending these charges at trial; (ii) he will be greatly disadvantaged in his ability to adequately prepare his defence if he is further remanded and (iii) he has a nine-year old son who is dependent on him financially and emotionally.
3. Mr. Cargill who appeared for the Applicant submitted that the case against the Applicant is tenuous. He next submitted that there is no evidence that the Applicant will abscond, interfere with witnesses or commit another offence.
4. Mr. Bonaby who appeared for the Attorney General vehemently objects to the grant of bail on the grounds set out in the Affidavit of Sergeant 1600 Barry Smith filed on 15 December 2015.
5. Bail is denied for the following reasons:
 - (1) **Armed Robbery is a serious offence: see Part C offences-** and given the severity of the penalty attached to the offence, there is a great risk that the Applicant may abscond if given bail.

See: paragraph 12 of Jonathan Armbrister v The Queen SCCR App. No. 143 of 2011, delivered on 8 February 2012.

- (2) **The evidence against the Applicant is cogent:** Defence Counsel submits that the evidence is tenuous. The Attorney General relies on fingerprint evidence more particularly detailed in the Report of Nathaniel Gilbert, a Latent Print Examiner. In any event, the Court is not concerned with disputed issues at the hearing of a bail application but whether there is any cogent evidence against the Applicant.

See: Court of Appeal case of Richard Hepburn v The Attorney General SCCrApp &CAIS No. 276 of 2014

- (3) **No unreasonable delay:** This matter is slated for trial on 23 November 2017 so there is no unreasonable delay in the prosecution of this matter. The Applicant has been on remand for less than a year now. He was arraigned on 2 March 2015 before the Chief Magistrate.

- (4) **Previous conviction though not of similar nature:** The Applicant has a previous conviction for possession of dangerous drugs. He was fined \$1,000 or three months imprisonment on 23 February 2015.
- (5) **Pending Charges:** The Applicant also has two pending matters for (i) possession of dangerous drugs and (ii) possession of forged documents. Mr. Cargill informed the Court that the Applicant was discharged on the possession of forged documents and he produced a certificate of discharge. One observes that the charge reads “Possession of forged currency notes alleged to have been committed on 19 February 2015. The Applicant was arraigned for this offence on 23 February 2015. The pending matter of “possession of forged documents” is dated 21 October 2015. It does not appear to be the same charge.

Dated this 9th day of February, A.D., 2016

Indra H. Charles
Justice