COMMONWEALTH OF THE BAHAMAS **2019**

IN THE SUPREME COURT **CRI/BAL/00133**

CRIMINAL DIVISION

BETWEEN

MARIO BROWN

Applicant

V

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

BEFORE: **The Honourable Mrs. Justice Cheryl Grant-Thompson**

APPEARANCES: **Mr. Ian Cargill and Mr. Anthony Delaney, of Ian D. Cargill & Co. for Applicant**

Ms. Cassie Bethel of the Office of the Director of Public Prosecutions for Respondent

HEARING DATES: **20th January 2020, 26th February 2020**

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BAIL JUDGMENT

Bail - Bail Act - Application for Bail – Part C Offences - Part A First Schedule- Regard to relevant factors – Section 4(2)- Primary Considerations on a bail application - s. 4 (2) (2B) – Section 4(2)(a)- Whether there has been unreasonable delay - Section 4(2)(c)- Whether applicant is a fit and proper candidate for bail

GRANT-THOMPSON, J

1. The Applicant, thirty (30) year old Mario Brown is charged with the Murder of Jamaal Kemp, contrary to section 291(1) (b) of the Penal Code, Chapter 84. The offence is alleged to have taken place on the 10th February, 2019.

2. An application to the Supreme Court for bail was made and supported by Affidavit of Mr. Brown outlining, inter alia, reasons why the Applicant should be granted bail.

3. The Applicant by his Affidavit frankly informed the court that he had a prior conviction for Possession of an Unlicensed Firearm and Possession of Ammunition; and prior convictions as a Juvenile for Vagrancy and Attempted Shop-breaking.

4. The Respondent objected to the grant of bail by Affidavit of Inspector Monique Turnquest citing, inter alia, that:

    a. there has been no unreasonable delay in the matter;
    b. there is strong cogent evidence which points to the Applicant being identified for the shooting death of the deceased;
    c. the Applicant has strong ties with and is a member of the One Order Gang and should therefore be kept in custody for his own protection and that of the society;
    d. the Applicant is not a person of previous good character; and
    e. contrary to the Applicant's Affidavit, the Applicant has a pending matter for Assault with a Deadly Weapon.

5. The Applicant quite properly put the Office of the Director of Public Prosecutions to proof particularly with regard to 3(c) above. In the result, Assistant Superintendent of Police Darron Nixon, came to court and gave evidence relying on a filed Affidavit. He testified that he is the Deputy Director of the Central Intelligence Bureau of the Royal Bahamas Police Force and that the Applicant is well known to the police as he is a member of

the "Top Side Kemp Road One Order gang". Assistant Superintendent Nixon further stated that the Applicant's role in the Top Side One Order gang is that of a high level street enforcer and that the Applicant is also a drug trafficker for the gang.

6. This is a senior and respected officer of a specialist agency, who came to speak of police intelligence gathered in this regard. In my view, this goes beyond a mere assertion but appears based on sensitive and confidential police intelligence. I did not require the senior officer to reveal his sources on the record. The Crown also sought to prove that the Applicant was placed in a portion of the prison where 'alleged gang members' are placed. I note that notwithstanding prison officers came to the courtroom, none took the stand. Whether they were intimidated as alleged by the Crown or refused to, because of their personal choice as asserted by the Applicant, it did indicate to me the serious view the Crown took of this matter and of seeking to prove the basis of its allegations beyond mere assertions.

7. Having read the Affidavits, listened to the oral evidence, observed the demeanor of the witnesses and having considered the oral submissions of Counsel for Applicant and Respondent, I find that the Respondent has satisfied me that the Applicant **ought not to be granted bail pending his trial** both in the interests of Justice and for the protection of the public.

8. I therefore exercise my discretion **not to grant to the Applicant bail** for the following reasons:

    a. **The Applicant will be tried within the three (3) year period that Parliament has determined to be reasonable;**

    b. **The Applicant has not satisfied the court that he is of good character, which according to the Bail Act is a primary consideration, due to his previous convictions as an adult for Possession of an Unlicensed Firearm and Possession of Ammunition;**

c. I am not satisfied that if granted bail the Applicant would return for trial; and

d. The release of the Applicant on bail would be detrimental to the protection and safety of the public which is paramount. There is evidence before the court that the Applicant is associated with the "Top Side One Order Gang" allegedly as a high level street enforcer.

THE APPLICABLE LAW

9. The Applicant is presumed to be innocent of the charges contained in the Indictment. In this regard Article 20(2)(a) of The Constitution of The Bahamas obtains and states:

> ***"20. (2) Every person who is charged with a criminal offence – (a) shall be presumed to be innocent until he is proved or has pleaded guilty."***

10. Furthermore, Article 19(1) (b) of the Constitution guarantees that no person shall be deprived of personal liberty, save upon reasonable suspicion of having committed… a criminal offence. Although personal liberty is guaranteed by the Constitution the law authorizes the taking away of that personal liberty upon reasonable suspicion of a person having committed a crime.

11. Parliament has set general standards for the court's consideration when deciding the issue of bail. By Article 19(3) of the Constitution, these standards are reasonable conditions to ensure the appearance of the person for trial, as was recognized by **Sawyer P. in Attorney General v Bradley Ferguson et al SCCr No. 57, 16, 108 and 116 of 2008**.

12. So far as is applicable in the instant case the Bail Act 2011 amendment provides:

> ***"3. Amendment of section 4 of the principal Act.***
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> ***Subsections (2) and (3) of section 4 of the Bail Act are repealed and replaced as follows-***
>
> ***"(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.***
>
> ***(2B) For the purpose 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 victim or victims of the alleged offence, are to be primary considerations.***
>
> ***PART A***
> ***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-***
> ***(i) fail to surrender to custody or appear at his trial;***
> ***(ii) commit an offence while on bail; or***
> ***(iii) 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.

TRIAL WITHIN A REASONABLE TIME

13. The Applicant is entitled to a trial within a reasonable time. In this regard Article 19(3) of The Constitution of The Bahamas states:

> ***"19(3) Any person who is arrested or detained in such a case as is mentioned in subparagraph (1)(c) or (d) of this Article and who is not released shall be brought without undue delay before a court; and if any person arrested or detained in such a case as is mentioned in the said subparagraph (1)(d) is not tried within a reasonable time he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon reasonable conditions including in particular such conditions, as are reasonable necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial."***

14. Furthermore, section 3(2)(A)(a) of the Bail (Amendment) Act 2011 (the Act) states:

> ***"2(A) For the purpose of subsection (2)(a) and (b)—***

(a) without limiting the extent of a reasonable time, a period of three years from the date of the arrest or detention of the person charged shall be deemed to be a reasonable time;"

15. In **Duran Neely v The Attorney General Appeals No. 29 of 2018**, Evans JA at paragraph 17 stated:

> ***"17. It should be noted that Section 4 of the Bail Act does not provide the authorities with a blanket right to detain an accused person for three years. In each case the Court must consider what has been called the tension between the right of the accused to his freedom and the need to protect society. The three year period is in my view for the protection of the accused and not a trump card for the Crown. As I understand the law when an accused person makes an application for bail the Court must consider the matters set out in Section 4(2)(a), (b) and (c). This means that if the evidence shows that the accused has not been tried within a reasonable time or cannot be tried in a reasonable time he can be admitted to bail as per (a) and (b). In those circumstances where there has not been unreasonable delay the Court must consider the matters set out in (c). If after a consideration of those matters the Court is of the view that bail should be granted the accused may be granted bail."***

16. Section 4(2)(a) the Bail (Amendment) Act 2011 requires the judge to consider whether there has been such unreasonable delay as will warrant the applicant being admitted to bail because his fair trial rights are in jeopardy. The offence of Murder for which the Applicant is charged occurred on the 10th February, 2019 and the Applicant was arraigned on the 18th February, 2019 before Chief Magistrate Joyann Ferguson-Pratt. The date for the trial of the Applicant has been fixed for 7th February, 2022. Exactly three years later.

17. Due to the period from the date of arraignment, to the date of the trial of the Applicant being within the statutory three year period of detention stipulated by Parliament, I find that the Applicant will have a trial within a reasonable period of time.

18. As such, the considerations under section 4(2)(a) of the Bail (Amendment) Act 2011 which I am mandated to take into account in determining a Bail

Application has failed as the Applicant in this matter, barring there are no setbacks will commence his trial within three (3) years from the date of his arrest and detention.

19. Furthermore, I am also of the view that the Applicant has not satisfied the provisions set out in section 4(2) (c) of the Bail (Amendment) Act 2011 and as such bail should also be denied on this ground. According to section 4(2B) of the Act, for the purpose of subsection (2) (c), the primary considerations for persons charged with an offence mentioned in Part C of the First Schedule (to which the Applicant is charged) are, the characteristics or antecedents of the person charged and the need to protect the safety of the victim or victims of the alleged offence.

20. The Court of Appeal in **Damargio Whyms v The Director of Public Prosecutions Appeals No. 148 of 2019**, at paragraphs 44 and 45 of the judgment stated:

> ***"44. It is clear from an ordinary reading of the foregoing section that Parliament intended subsections 4(2)(a) and (c) respectively to operate as alternative routes to the grant of bail. That said, this does not mean that the section 4(2)(a) and (c) discretions may not each be engaged in the course of the same application. Whether both discretions are in play in any given application will depend on the evidence before the judge and the basis on which the application is made. Where both sub-sections are engaged, the issues for the judge's consideration are clearly separate and distinct. As the section itself implies, section 4(2)(a) requires the judge to consider whether there has been such unreasonable delay as will warrant the applicant being admitted to bail because his fair trial rights are in jeopardy. Section 4(2)(c) on the other hand requires the judge to have regard to "all the relevant factors", none of which includes the issue of unreasonable delay."***
>
> ***"45. As we see it, the fact that there has been no unreasonable delay in the matter proceeding to trial can never be placed in the scales against an applicant for bail and weighed together with all the relevant factors to be taken into account when a judge is exercising the statutory discretion under section 4(2)(c) whether to admit an applicant to pre-trial bail for a Part C offence. If it were otherwise, an applicant for bail who is otherwise a suitable candidate for bail, might find himself wrongfully kept on remand simply because there has been***

no unreasonable delay in the progress of his matter to trial. This would be unfair to the applicant and clearly wrong. The two discretions are separate and distinct and should not be conflated. Depending on the evidence, they may both arise for consideration in the same application, but a "finding" that there has been no unreasonable delay ought never to be taken into account as "a relevant factor" when a judge is exercising his or her discretion under section 4(2)(c)."

CHARACTER OR ANTECEDENTS OF THE APPLICANT

21. The Applicant according to his sworn Affidavit has a previous conviction for Possession of an Unlicensed Firearm and Possession of Ammunition. The Applicant also stated in his Affidavit that he had prior convictions as a Juvenile for Vagrancy and Attempted Shop-breaking. The latter of which the court did not take into consideration. Similarly, I did not accept any drug antecedents for the Applicant in the evidence of ASP Nixon.

22. The Applicant has furthermore sworn that he has no matters pending before the court. The Respondent in their Affidavit refutes this claim and states that the Applicant has a pending matter for Assault with a Deadly Weapon.

23. A primary consideration according to subsection (2B) of the Bail (Amendment) Act 2011 for the purpose of subsection (2)(c) is the character or antecedents of the person charged. The Applicant, in addition to having been convicted for Possession of an Unlicensed Firearm, also has a pending matter in Magistrate Court #8 for Assault with a Deadly Weapon. Based on this evidence I am satisfied that the Applicant does not have the requisite character based on his antecedents and therefore should not be granted bail. It indicates to me a propensity to commit offences involving firearms. Further the Crown alleges that the Applicant who was on bail prior to his arrest, failed to appear before the Magistrate's Court resulting in a bench warrant being issued for his arrest.

LIKELIHOOD OF THE APPLICANT TO ABSCOND

24. I am of the belief that if granted bail, due to the severity of the charges, it is probable that the Applicant will abscond and not appear to face the charge of murder for which he is before the court.

25. There is no information before this Court which indicates that the Applicant will abscond and not appear for his trial. I do note however, the findings of the Privy Council in the case of ***Hurnam v The State (Privy Council Appeal No. 53 of 2004)(Hurnam)***. Lord Bingham of Cornhill, in delivering the Judgment of the Board said:

> ***"It is obvious that a person charged with a serious offence, facing a severe penalty if convicted, may well have an incentive to abscond or interfere with witnesses likely to give evidence."***

26. In **Jonathan Armbrister v The Attorney General SCCrApp. No.145** of 2011 John, JA observed as follows:-

> ***"12. It has been established for centuries in England that the proper test of whether bail should be granted or refused is whether it is probable that the defendant will appear to take his trial, and that bail is not to be withheld merely as punishment. The courts have also evolved, over the years, a number of considerations to be taken into account in making the decision, such as the nature of the charge and of the evidence available in support thereof, the likely sanction in case of conviction, the accused's record, if any and the likelihood of interference with witnesses."***

27. In this regard, Murder is a serious offence. Upon conviction, the Court may impose a term of imprisonment for life. It follows therefore that the Applicant facing this serious charge for which he is liable to a severe penalty, if convicted, may well in my view have an incentive to abscond and not appear for trial.

28. In **Cordero McDonald v. The Attorney General SCCrApp No 195** of 2016, Allen P., explained the extent of the judge's task in relation to the evidence which is adduced before the court on a bail application. Allen P., explained:

> ***"34. It is not the duty of a judge considering a bail application to decide disputed facts or law and it is not expected that on such an application a judge will conduct a forensic examination of the evidence. <u>The judge must simply decide whether the evidence raises a reasonable suspicion of the commission of the offences such as to justify the deprivation of liberty by arrest, charge, and detention. Having done that he must then consider the relevant factors and determine whether he ought to grant him bail</u>."*** **[Emphasis mine]**

29. The evidence against the Applicant is inclusive of a witness statement from an Anonymous Witness who was allegedly present and observed the incident and also the report of PC. Deveaux who allegedly observed the incident.

30. After my review of the evidence against the Applicant, I have concluded that 2it is sufficient to justify the deprivation of liberty by arrest, charge, and detention.

<u>INTERFERE WITH WITNESSES OR OTHERWISE OBSTRUCT THE COURSE OF JUSTICE</u>

31. While it is true that the Board did express the view that the seriousness of the offence and the severity of the penalty may be an incentive to interfere with witnesses, the Board in the case of ***Hurnam*** also expressed the view that there must be reasonable grounds to infer that there is a likelihood of interference with witnesses or obstruction of the course of justice. In this regard, Lord Bingham stated:

> ***"…Where there are reasonable grounds to infer that the grant of bail may lead to such a result, which cannot be effectively eliminated by the imposition of appropriate conditions, they will afford good grounds for refusing bail"***

32. There is some onus upon the Crown to satisfy the Court that the Applicant is likely to interfere with witnesses if bail is granted. In other words, the prosecution has the burden of providing the Court with sufficient information from which the Court can reasonably conclude that there is a likelihood of the

Applicant interfering with witnesses. The Applicant asserts that he will not interfere with prosecution witnesses.

33. The Court of Appeal in the case of **Jonathan Armbrister and The Attorney General SCCrApp No. 145 of 2011 (Jonathan Armbrister),** John JA at paragraph 11 stated:

> ***"11. A good starting point in reviewing the principles applicable where an appellant has been charged but not yet put on trial is the statement of Lord Bingham of Cornhill in Hurnam v The State (Supra) where he said at paragraph 1:***
>
> ***"In Mauritius, as elsewhere, the courts are routinely called upon to consider whether an unconvicted suspect or defendant should be released on bail, subject to conditions, pending trial. Such decisions very often raise questions of importance both to the individual suspect or defendant and to the community as a whole. The interest of the individual is of course to remain at liberty, unless or until he is convicted of a crime sufficiently serious to justify depriving him of his liberty. Any loss of liberty before that time, particularly if he is acquitted or never tried, will inevitably prejudice him and, in many cases, his livelihood and his family. But the community has a countervailing interest, in seeking to ensure that the course of justice is not thwarted by the flight of the suspect or defendant or perverted by his interference with witnesses or evidence, and that he does not take advantage of the inevitable delay before trial to commit further offences"***

34. I accept that there is no evidence before the court that the Applicant will interfere with witnesses if granted bail, however from the evidence of the witness called I am satisfied that serious concerns have been raised for public safety.

NATURE AND SERIOUSNESS OF THE OFFENCE

35. I accept that the hearing of a bail application is not the appropriate place for assessing or determining the strength or weaknesses of the evidence that the

prosecution proposes to present at trial. The Court of Appeal expressed this view in the case of **A.G. v Bradley Ferguson**. Osadebay JA said at page 61 of the Judgment:

> **"It seems to me that the learned judge erred in relying on his assessment of the probative value of the evidence against the respondent to grant him bail. That is for the jury at the trial. As stated by Coleridge J. in Barronet's case earlier- the defendant is not detained because of his guilt but because there are sufficient probable grounds for the charge against him, so as to make it proper that he should be tried and because the detention is necessary to ensure his appearance at trial" (emphasis provided).....**
> **…...The learned trial judge also took into consideration matters that he ought not to have taken into consideration by relying on his own assessment of the probative value of the evidence against the respondent."**

36. I am guided by the Judgment of the Court of Appeal and I therefore make no findings on the probative value of the witness statements laid before me. I accept that it is not the duty of a judge, during bail applications to decide disputes of evidence as was seen recently in ***Richard Hepburn v Attorney General*** **SCCRAPP & CAIS No. 276 of 2014**. I also accept that whether the evidence against the Applicant is strong or weak is yet to be determined.

37. As previously stated, I am of the view that it is probable that the Applicant will abscond and not return for his trial in the event that he is released on bail. I also take judicial notice of notorious facts such as the high rate of murder in the community and the growing culture of vigilantism.

38. In the case of **Jevon Seymour v The Director of Public Prosecution SCCrApp No. 115 of 2019**, Crane-Scott JA at paragraph 49 of Judgment stated:

> ***"49. As Lord Bingham pointed out at paragraph 16 of the Board's decision in Hurnam, while recognizing that the severity of the sentence faced is a relevant element in the assessment of the risk of absconding or re-offending, the European Court of Human Rights has consistently insisted that:***

'the seriousness of the crime alleged and the severity of the sentence faced are not, without more, compelling grounds for inferring a risk of flight.'

50. We are satisfied that even if the learned judge found (as he could) that the Crown's evidence was "cogent" and was prepared to infer (as he did) that given the nature and seriousness of the offences and the likely penalty, that appellant might have a powerful incentive to abscond, that is not the end of the matter. Such a "finding" is not in itself a reason for denying an applicant bail. Accordingly, if the learned judge concluded that the appellant might be tempted to abscond, in the proper exercise of his discretion, he ought also to have proceeded to consider whether that risk could nonetheless be effectively eliminated by the imposition of appropriate conditions."

39. Furthermore, the discussion by Crane-Scott JA in the case of **Seymour** starting from paragraph 58 and ending at paragraph 61 is also noteworthy:

"58. On behalf of the Crown, Mr. Algernon Allen Jr., submitted that the judge exercised his discretion reasonably. He supported the judge's decision and reasons set out in the judge's Decision for refusing bail. There was no requirement, he said, for the judge to embark on a forensic examination of the evidence since the identification and recognition evidence and the question whether the Crown's eye-witnesses were mistaken as the appellant alleged, were issues which (as the judge correctly found) were matters to be vetted at the trial.

59. As to the judge's "finding" at paragraph 16(v) that bail should be denied because in "the circumstances of this Applicant and this application, the need for public order and public safety is paramount", Mr. Allen Jr. supported the judge's decision notwithstanding that there was no evidence that the eye-witnesses or the public at large needed to be protected from the appellant. He relied on dicta from a previous decision of this Court (differently constituted) in Dwayne Heastie (above) to support his submission that there was no need for the Crown to adduce formal evidence that an applicant for bail was a threat to public safety or public order as these were "primary considerations" identified in section 4(2B) of the Bail Act.

60. Mr. Allen Jr. further relied on Hurnam and submitted that it is permissible on a bail application for a judge (as this judge did at paragraph 15 of his Decision) to take judicial notice of notorious facts, such as the high rate of murder in the community and the growing culture of vigilantism indicative of a break down in public order and a depreciation in public safety in denying bail to

the appellant and to have regard to the fact that at the time of the incident, the victims and witnesses were located at the residence of the Head of State of The Bahamas.

61. With all due respect to Mr. Allen and to the learned judge, while a judge is doubtless entitled to take judicial notice of notorious facts such as the high rate of murder in the community and the growing culture of vigilantism, given the presumption of innocence and the appellant's hitherto good character, such factors could not be held against the accused man in the absence of evidence from the Crown which would make such factors relevant to the particular applicant before him. (Emphasis mine)

40. Firstly, it must be expressed that I fully understand that finding that the offense of murder for which the Applicant is charged is of a serious nature is not in itself a reason for denying the application.

41. Additionally, I am aware that having concluded that the Applicant might be tempted to abscond, in the proper exercise of my discretion, I must also consider whether that risk could nonetheless be effectively eliminated by the imposition of appropriate conditions.

42. The distinction between the Appellant in the case of Seymour and the Applicant presently before the Court must also be observed. Mr. Seymour prior to his arrest and detention for the offence of murder had no prior conviction. On the other hand, the Applicant has a prior conviction of Possession of an Unlicensed Firearm and Possession of Ammunition which also shows a propensity to commit offences involving firearms. In addition to the previous conviction of the Applicant, there is also some evidence before the court that he is a member of the "One Order Gang" allegedly as a high-level street enforcer. I accept that he was not charged under the section of the Penal Code for gang members, however, I made no determination on this other than my concern for public safety.

43. It is alleged that the Applicant has ties not only local gangs but also international gangs as sworn in the Affidavit of Assistant Superintendent Nixon, I find that the various conditions that are available to the court such as

the Applicant being electronically monitored or reporting to a police station is not sufficient to eliminate or minimize the risk of the Applicant absconding from trial.

44. The court has a duty to make decisions that will ensure the safety of the public. In light of this, failing to take into consideration the evidence provided by Assistant Superintendent Nixon would be dangerous.

45. Furthermore, I am also of the view that the release of the Applicant on bail would be detrimental to the protection and safety of the public which is paramount.

46. I find that the only way it is certain that the Applicant would be present for his trial and that the public is safe is to remain in the custody of the state at the Bahamas Department of Corrections.

47. When all of the factors I am mandated to take into consideration according to the Bail Act are applied to the Applicant, I conclude that he is not a proper candidate to be granted bail. The offence allegedly took place in February 2019 and the trial date for the Applicant is scheduled for February 2022 which means he will be tried within a reasonable time. The Applicant is not of good character due to his previous convictions, the Applicant is alleged to be a high ranking member of a major gang by credible sources, he is presumed to be a flight risk due to the nature of the crime, it is probable the Applicant will abscond due to the severity of the penalty if convicted, and there is also a major concern for public safety.

48. The Applicant is denied bail for the following reasons.

1. His trial will be conducted in a reasonable time and therefore the consideration according to section 4(2)(a) of the Bail (Amendment) Act 2011 has not been satisfied in my view;

2. His character is not a good one based on his previous convictions and other alleged unsavory gang involvement, and therefore the primary consideration according to section 4(2B) of the Bail (Amendment) Act 2011 has not been satisfied in my view;

3. If granted bail he is likely to abscond due to the severity of the charges and the nature of the evidence against him; and

4. I am also concerned for the safety and the protection of the prosecution witnesses; I therefore also deny bail in the public interest. The release of the Applicant on bail would in my view be detrimental to the protection and safety of the public which is paramount.

49. I promised to put my reasons in writing this I now do.

Dated the 16 day of April A.D. 2020

Cheryl Grant-Thompson
Justice