

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

Criminal Side

2023/CRI/bal/No. 00085

BETWEEN

TREYVAR TAYLOR

Applicant

AND

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

BEFORE: The Honourable Mr Senior Justice Bernard Turner

**APPEARANCES: Ms Miranda Adderley for the Applicant
 Ms T'shura Ambrose and Ms Cashena Thompson
 for the Respondent**

HEARING DATE: 5 June 2023

RULING

TURNER Snr. J.

1. The applicant herein applied for bail by way of a summons with an affidavit in support thereof filed on 1 June 2023, in respect of a charge of murder and attempted murder, which is alleged to have occurred on 25 April 2023.

2. The affidavit of the applicant reads, in part:

“1 . That I am 22 years old born on 25th November, 2000.

2. That I am presently incarcerated at The Bahamas Department Of Corrections on remand for the offences of:

(i) Murder, contrary to Section 291(1)(b) of The Penal Code, Chapter 84, (1 count); and

(ii) Attempted Murder contrary to Section 292(1)(b) of The Penal Code, Chapter 84, (1 count) now produced and shown to me marked "Exhibit TT1" is a true copy of the record of information from the Magistrate's Court#9.

3. That before my incarceration at the Bahamas Department Of Corrections ("BDOCS"), I resided at #6 Wind Street on the Island of New Providence, one of the Islands of the Commonwealth of The Bahamas.

4. That I am a good candidate for bail in this matter.

5. That I am a person of good character and I do not have any previous convictions or pending matters in this jurisdiction or elsewhere.

6. That I am innocent of all charges against me.

7. That I am verily aware that the purpose of bail is to ensure my presence at trial and I express that I will be

present for any and all court appearances and it is not necessary to remand me until that time. That I am not a flight risk.

8. That I am not a threat to society and that I will not interfere with any witnesses in this matter. I ask that the court grant me bail of a reasonable amount so that my family may be able to meet the requirements.

9. That if granted bail by this Honorable Court, I will abide by any conditions which this court may be mindful to impose.

10. That I am employed as a jet-ski operator which my operations based on Rose Island.

11. That I have never been before the courts for any matter and I have strong ties to my family and my community, and thus I have no reason to abscond.”

3. In response, an affidavit was filed objecting to bail, that affidavit reads:

“...

4. That the Applicant TREVVAR TAYLOR (Date of Birth 25th November 2000) is charged with the following offences:

1. Murder, contrary to section 291(1)(b) of the Penal Code, Chapter 84; and

2 Attempted Murder, contrary to section 292 of the Penal code, chapter 84

5. That these offences are alleged to have been committed on Tuesday 25th March 2023 in New Providence.

6. That it is alleged that on Tuesday, 25th March, 2023, the Applicant did murder Pedreirio Mejius aka PJ.

7. That it is further alleged that on Tuesday, 25th March, 2023, the Applicant by means of unlawful harm, did intentionally and unlawfully attempt to cause the death of Deon Exelant.

8. The Respondent verily believes that the evidence against the Applicant in this matter is cogent.

9. Deon Exelant reports that on Tuesday, 25th March, 2023 he was driving in his vehicle with Pedreiro Mejius in the area of Flamingo Gardens when he saw a Nissan Cube speed up behind him. This vehicle pulled on the side of him and that is when he heard "PJ" said , "bey watch it." when Mr. Exelant turned his head to the right he saw a grey vehicle in his right with the rear window down and two men pointing firearms at him.

10. Mr. Exelant indicated that one of the males who was closer to the window he had seen before in the area of Sandilands Road in the Eastern part of New Providence with a male known as "Pepper". Mr. Exelant described this male as having plaits with brown skin from the window at him.

11. According to Mr. Exelant, this male has a problem with "PJ" Further that PJ told him that since Pepper was recently killed, he had been receiving threats blaming him for Pepper's death. Attached hereto and marked "PM-1" is a true copy of the statement of Deon Exelant.

12. That on the 10th May 2023, Mr. Exelant positively identified the Applicant in a 12 man photo line-up.

13. Attached hereto and marked "PM-2" and "PM-3" is a true copies of the statements of Deon Exelant and D/Sgt 2735 Raphael Miller.

14. That both offences which the Applicant stands charge are serious in nature.

15. It is in the interest of the public, the Applicant ought not to be given bail.

16. The Respondent wishes to rely on the First Schedule Part A which notes that the Court should consider the nature and seriousness of the offences."

17. That the contents of this Affidavit are true and correct to the best of my knowledge, information and belief."

4. The charged offences is a Part C offences and in relation to those types of offences section 4(2) of the Bail Act provides:

"4. (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,

(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 make 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 for the released on bail.

(2A) 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;

(b) delay which is occasioned by the act or conduct of the accused is to be excluded from any calculation of what is considered a reasonable time.

(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 public or public order and, where appropriate, the need to protect the safety of the victim or victims of the alleged offence, are to be primary considerations.”

Part A of the First Schedule of the Act provides:

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;...

(g) the nature and seriousness of the offence and the nature and strength of the evidence against the defendant;

(h) in the case of violence allegedly committed upon another by the defendant, the court's paramount consideration is the need to protect the alleged victim.

5. Relative to the nature and seriousness of the offence of murder, that offence is obviously one of the most serious offences and attracts a severe penalty upon conviction which can give rise to the risks of the applicant absconding or failing to appear for his trial.

6. The Court of Appeal in **Jevon Seymour v Director of Public Prosecutions, No. 115 of 2019**, stated, at paragraph 66, the following:

“66. In the absence of evidence, merely listing the relevant factors and using expressions such as “may”; or “is likely to”; or “it is recommended” as was done in the McHardy affidavit, cannot discharge the Crown’s burden. We take this opportunity to stress once again what this Court (differently constituted) said in Armbrister, which is that that is not how the Crown’s burden on a bail application is discharged. Paragraph (a) of the First Schedule requires the production by the Crown of evidence capable of supporting a belief that the applicant for bail “would”, if released, abscond, commit new offences or interfere with witnesses. Ritualistic repetition of the Part A factors, in the absence of evidence, is unfair to the accused person and comes nowhere close to discharging that burden.”

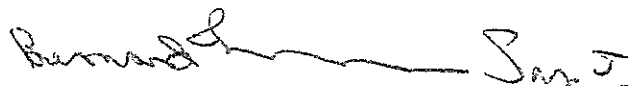
7. Paragraph 70 concludes the review of this issue by stating:

70. Put somewhat differently and at the risk of being unduly repetitive, we are satisfied that given the presumption of innocence and the evidence of the appellant's good character and the absence of criminal antecedents, there was no evidential basis before the judge in relation to the appellant which is capable of supporting the judge's ultimate conclusion at paragraph 16(v) of his decision that: "in the circumstances of this Applicant and this application the need for public order and public safety is paramount". In the absence of evidence that the appellant posed a substantial threat to the Crown's witnesses or to public safety and public order, the judge's decision was unreasonable and clearly wrong."

8. Applied to the facts of this case, the position of the appellant in **Seymour** is not dissimilar to this applicant, being a person who also asserts his good character and absence of criminal convictions. The Crown invites the court to merely find that it would not be in the public's interest that the applicant be admitted to bail, without providing any evidence or other information to come to that conclusion.
9. Without any supporting evidence, the respondent's invitation to find that there exists a basis for denying the applicant bail (since the cogency of the evidence is not itself a basis for refusing bail) would clearly be unreasonable and wrong, in the Court of Appeal's analysis.
10. The applicant is therefore granted bail on the following terms:
 1. Bail in the sum of \$20,000.00 with two sureties.

2. The applicant is to be electronically monitored and is required to comply with the Regulations for the use of such a device.
3. The applicant is not to come into any deliberate contact with any of the witnesses in this matter, either by himself or through any agent.
4. The applicant is to remain at least 100 feet from the virtual complainant in relation to the attempted murder charge.
5. The applicant is required to sign in at the Elizabeth Estates Police Station on Mondays and Fridays before 6:00pm.
6. The applicant is required to remain at his identified home between the hours of 8:00pm and 6:00am.
7. The applicant is required to surrender to the Central Police Station, Nassau, New Providence by 6:00 the evening before the scheduled trial date of his matter and thereafter to remain in custody during his trial, unless further ordered.
8. Any breach of any of these conditions will render the applicant liable to further remand.

Dated this 12th day of June, A D 2023

A handwritten signature in black ink, appearing to read "Bernard S A Turner" followed by a flourish and the initials "S.A.T.".

Bernard S A Turner
Senior Justice

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(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 make 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 for the released on bail.

(2A) For the purpose of subsection (2)(a) and (b) –

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(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 public or public order and, where appropriate, the need to protect the safety of the victim or victims of the alleged offence, are to be primary considerations.”

Part A of the First Schedule of the Act provides:

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(i) fail to surrender to custody or appear at his trial;

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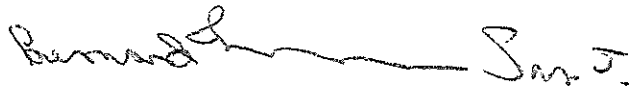
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7. Paragraph 70 concludes the review of this issue by stating:

70. Put somewhat differently and at the risk of being unduly repetitive, we are satisfied that given the presumption of innocence and the evidence of the appellant's good character and the absence of criminal antecedents, there was no evidential basis before the judge in relation to the appellant which is capable of supporting the judge's ultimate conclusion at paragraph 16(v) of his decision that: "in the circumstances of this Applicant and this application the need for public order and public safety is paramount". In the absence of evidence that the appellant posed a substantial threat to the Crown's witnesses or to public safety and public order, the judge's decision was unreasonable and clearly wrong."

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Dated this 12th day of June, A D 2023

A handwritten signature in black ink, appearing to read "Bernard S A Turner" followed by a flourish and the initials "S.A.T.".

**Bernard S A Turner
Senior Justice**