

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

SAINT VINCENT AND THE GRENADINES

SVGHCRB2014/0027

SVGHCRB2015/0028

SVGHCRB2016/0030

IN THE MATTER OF AN APPLICATION FOR BAIL BY:

RAFFIQUE CHEWITT

DWAINE SANDY

NOVAL SAYERS

Appearances:

Ms. Jimesha Prince for the Crown

Ms. Ashelle Morgan for the First Applicant

Mrs. Kay Bacchus-Baptiste for the Second Applicant Mr. Stephen Williams for the Third Applicant

2017: July 30

September 8

[1] **Cottle, J:** The three applicants were charged with two counts of attempted murder and two counts of possession of a firearm with intent to endanger life. On March 17 2016, the Learned Senior Magistrate upheld a submission of no case to answer and discharged the applicants.

[2] In June 2016 the Learned Director of Public Prosecutions issued a fresh indictment upon which the defendants were arrested.

[3] They applied to the Magistrate's Court for bail and were not successful. They applied to the High Court for bail, Latchoo J. denied bail.

[4] The applicants now apply once more to be admitted to bail pending their trial.

[5] The prosecution objected to the grant of bail. The case for the Crown is that the applicants are a team of contract killers. Their initial efforts did not succeed in May 2015 when the volley of gunshots they fired at the Virtual Complainant were all missed.

[6] In June 2015, they again came upon the Virtual Complainant who recognized them and fled. They pursued the said Complainant, shooting at him again and injuring a bystander in the process. The Virtual Complainant has filed an affidavit explaining that he fears that if the applicants are given bail they may try again to complete the job for which they were hired.

[8] The applicants point out that they were released from custody for over two months and there is no evidence that they made any attempt to harm the Virtual Complainant. They stated that his fears are groundless.

[9] It is important to bear in mind that this is an application before the High Court to be admitted to bail in circumstances where a similar application has already been refused.

[10] As I understand the applicable rule, an unsuccessful application for bail to the High Court cannot be renewed unless there is a change in circumstances relative to the application for bail of existing circumstances which had not been previously drawn to the attention of the bail court.

[11] Counsel for the applicant cites the Trinidad case of **Benito v. The State TT2009 HC307** where the court expressed the view that on intervening passage of some eight months was sufficient to constitute change in circumstances. I am content to proceed to consider the application on its merits.

[12] The main reason advanced by the State in objection to the application for bail is the fear that the applicants will interfere with witnesses if admitted to bail.

[13] Useful guidance as to the manner in which the court should approach the issue can be found in **B**

v. Slough Justices ex parte Duncan (1982) 75 Cr. App. Rep. 364. At p. 388 Ormrod LJ stated:

"Before the discretion to refuse bail arises the court has to be satisfied that there are substantial grounds for believing that one of the events described. .. will happen. It is the existence of substantial grounds for the belief, not the belief itself which is the crucial factor. "

[14] Thus the prosecution must satisfy this court on a balance of probabilities that there exist substantial grounds for believing that the applicants will interfere with the Virtual Complainants if released. In this regard, the prosecution have adduced the affidavit of the Virtual Complainant. His account of the assault and the second attempt by the applicants on his life in my view constitutes reasonable grounds for believing that if released, the applicants will interfere with the witness.

[15] As noted above the applicants point out that they had opportunity to interfere with the witness after they were released at the Magistrate's Court. In my view, at that stage there was no longer any criminal proceeding pending against the applicant. The position is very different now.

[16] I am satisfied that in the circumstances the applicants should be denied bail and their application is accordingly not granted.

Brian S. Cottle

HIGH COURT JUDGE

By Court

Registrar