



Neutral Citation Number: [2020] EWHC 3081 (Admin)

Case No: CO/2938/2020

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL
Date: 28 August 2020

Before :
MR JUSTICE FORDHAM

Between :
IONUT BURGHELEA **Applicant**
- and -
BUCHAREST TRIBUNAL, ROMANIA **Respondent**

Michael Hagar (instructed by Lloyds PR Solicitors) for the **Applicant**
Mark Smith (instructed by the Crown Prosecution Service) for the **Respondent**

Hearing date: 28 August 2020

Judgment as delivered in open court at the hearing

Approved Judgment

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

A handwritten signature in black ink, appearing to read 'Michael Hagar'.

.....
THE HON. MR JUSTICE FORDHAM

Note: This judgment was produced for the parties, approved by the Judge, after using voice-recognition software during an ex tempore judgment in a Coronavirus remote hearing.

MR JUSTICE FORDHAM :

1. This is an application under section 22(1A) of the Criminal Justice Act 1967 for bail in extradition proceedings, bail having been refused in the magistrates' court. My jurisdiction involves looking at the bail position "afresh": Tighe [2013] EWHC 3313 (Admin) at §5. The mode of hearing was BT conference call. The legal representatives were satisfied that this involved no prejudice to their clients' interests, and so was I. The hearing and its start time, together with a message "to attend the remote hearing please contact [my clerk's email address]", were all published in the cause list. The hearing was recorded. This judgment will be released into the public domain. By having a remote hearing, we eliminated any risk to any person, from having to travel to, or be present in, a Court. I am satisfied that a remote hearing was necessary and proportionate. Certain matters, were raised at a private hearing (applying CrimPR50.17 and having regard to the equivalent provision at CPR39.2(3)(g)) and there will be a confidential annex (as in Owens [2009] EWHC 1243 (Admin) at §4). I have considered all the material and submissions. I am dealing only with the extradition proceedings and the application for bail made within those proceedings. There may be, now or in the future, an overlay of decision-making by the relevant authorities relating to detention under immigration powers and any question of bail relating to any immigration detention.
2. The applicant is aged 45. He is originally from Romania. He is wanted for extradition to Romania in connection with a conviction European Arrest Warrant issued on 22 January 2020. It relates to a conviction and sentence in July 2018 made final in December 2019, relating to index offending constituting, broadly, fraud in 2008. A custodial sentence of 3 years 8 months remains unserved. A full extradition hearing has yet to take place.
3. I shall summarise the relevant points concerning the respondent's opposition to bail. Mr Smith submitted as follows. There is no presumption in favour of the grant of bail, this being a conviction EAW case. I interpose – I accept that. Continuing, there are substantial grounds for believing that the applicant will fail to surrender if released on bail and notwithstanding the conditions put forward. The applicant faces extradition in relation to serious matters, and a custodial sentence of 3 years 8 months. He is plainly very anxious to avoid the prospect of extradition and the prospect of serving that custodial sentence. That gives him a strong incentive to fail to surrender. He has an established propensity to use false documents, including to cross borders. The index offending from 2008, of which the applicant stands convicted (in 2018), includes offending relating to the production of false documents. Moreover, the applicant was convicted the following year (2009) by an Italian court of an offence committed in 2001 of procuring illegal entry. The applicant has extremely limited UK ties. He arrived here on 28 February 2020 and was promptly arrested on arrival. He has been detained ever since. His partner was living in Austria up until last month. His 14 year old daughter is still, as things stand, with her mother in Romania. The applicant arrived in the United Kingdom and attempted to enter the United Kingdom illegally, using a passport which was not his own.
4. I have considered all of these matters carefully, together with everything else that I have been told today, everything that was submitted by Mr Haggart for the applicant, and everything that I have read in the documents in this case. My assessment is as follows.

5. In my assessment, there are not, in this case, substantial grounds for believing that the applicant would fail to surrender if released on bail with the proposed conditions. In light of that assessment, I am going to grant bail. The conditions include a residence condition, with an address that the applicant would be occupying with his partner, she having relocated to the United Kingdom in order to be with him here. There will be a stringent curfew, electronically monitored from 7pm to 7am, at the specified address. The applicant will be required to report every day to the local police station. A pre-release security of £10,000, substantially raised from the applicant's partner, is required. There are the usual prohibitions in relation to international travel documents and hubs.

6. I accept the submissions of Mr Haggar. I am satisfied, on the evidence, that the applicant has 'turned his life around' since the offending in 2001 in Italy, and since 2008 when the index offending (which he denies) but of which he was convicted is recorded to have taken place. I accept that the applicant was subsequently on bail in another jurisdiction and was compliant with that bail. I agree that he has a strong incentive to avoid extradition. But I am satisfied that there is a proper basis for concluding that he has proper grounds for resisting extradition through due process in this jurisdiction, and that he has a proper and strong incentive to engage with the authorities in order to do so. I am not of course making any finding as to whether he will ultimately succeed. He has an extradition hearing at which various grounds for resisting extradition will be addressed, and there is a statutory right of appeal. I also accept, on the evidence, that he has chosen the United Kingdom for a reason, and has chosen – with resolve – to come to the United Kingdom, and seeks to build a life in the UK with his partner, and joined by his 14 year old daughter, all of which is a matter of great importance to him. Any act of non-compliance now, and in particular any attempt to abscond with or without his partner, whether to Austria or anywhere else, would in my assessment strongly undermine the prospects which, through the pursuit of proper due process, cooperation and compliance, he currently has. I agree with the characterisation of the conditions as stringent in the circumstances of this case. The points powerfully made by Mr Smith on behalf of the respondent do not lead me to conclude that there are substantial grounds for believing that the applicant will fail to surrender if released on conditional bail. I am quite satisfied that bail is appropriate. I will grant bail on the proposed conditions.

28 August 2020