



Neutral Citation Number: [2021] EWHC 1896 (Admin)

Case No: CO/2228/2021

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 7<sup>th</sup> July 2021

**Before :**

**MR JUSTICE FORDHAM**

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**Between :**

**MARTIN DOBRINOV KISYOV**  
**- and -**  
**PROSECUTOR'S OFFICE, REPUBLIC OF**  
**BULGARIA**

**Applicant**

**Respondent**

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**Louisa Collins** (instructed by GT Stewart) for the **Applicant**  
**Georgia Beatty** (instructed by the CPS) for the **Respondent**  
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Hearing date: 7.7.21

Judgment as delivered in open court at the hearing  
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**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.

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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 to the High Court for bail in an extradition case, pursuant to section 22(1A) of the Criminal Justice Act 1967, in circumstances where bail has been refused in the magistrates' court. My jurisdiction involves a primary judgment, considering the position afresh. The mode of hearing was a remote hearing by MS Teams. I am satisfied that that mode of hearing was necessary and appropriate in all the circumstances, that it involved no prejudice to the interests of any party or person, and that the open justice principle has been secured. The case and its start time were published in the cause list together with an email address usable by any member of the press or public who wished to observe this public hearing.
2. The Applicant is aged 38 and is wanted for extradition to Bulgaria. That is in conjunction with an EAW issued on 11 March 2019. It relates to a 5 year prison sentence recorded as taking effect on 12 November 2018, and as having been imposed on 13 March 2018 by a Bulgarian appeal court, reducing the 15 year custodial sentence initially imposed by the Bulgarian court in September or October 2017, following a trial at which the Applicant had been convicted. The conviction is described as "murder", which the Applicant says was a recharacterisation, he says by the appeal court which reduced the sentence. The offence took place on 9 April 2015 and is described as having involved multiple blows to the body of the female victim, who then later died. The Applicant says that they were neighbours. He says there has been a miscarriage of justice. He says he believes there was or may have been a 'manipulation' in replacing a charge of manslaughter with one of murder. He also says he believes that the victim's death arose in a context of medical neglect at the hospital. He accepts that he was present at his trial, as is recorded in the EAW. He does not, in any materials which I have seen, say that he was present at the original sentencing hearing (whether in September 2017 or in October 2017). He states clearly that he came to the UK on 28 July 2017. He also states clearly that he travelled to Bulgaria and was present at an appeal hearing. On the face of it, that was the appeal hearing which resulted in the reduction of the sentence from 15 to 5 years. The Applicant accepts that he returned to the United Kingdom after that. It is not clear whether there was a further hearing following the appeal, when the matter returned to the first instance court, possibly for the purposes of the sentence taking effect.
3. Bail is resisted by the Respondent.
4. The case for bail, in essence as I see it, based on all the materials and the submissions in writing and orally made by Ms Collins, is as follows. The Applicant has settled roots and ties in the United Kingdom. He has been here since July 2017, with strong family and community ties. According to his evidence he had also been in the UK between January 2006 and March 2013. That was prior to the relationship with his partner (or may have overlapped for a short time) and it is not known where in the UK he had been at that time, but that previous period in the UK is relevant so far as concerns roots and ties. He has been working as a telecoms engineer from January 2018, something which is supported by documentary evidence. He is in a long-term relationship with his partner, now of some 8 years. He has no UK convictions or cautions. His partner has significant medical needs and has been undergoing important treatment here, treatment which it would be expected would need to continue, and for which she would want and need to remain in the UK. He has previously and throughout actively engaged with the legal process, including

travelling back to Bulgaria for his appeal hearing following which the sentence was reduced to 5 years. There is every reason to think that he will now engage with the extradition legal process, as he is doing. If he had wanted to evade the Bulgarian authorities he would not have returned to Bulgaria for the appeal hearing. Nor would he have returned to the United Kingdom and continue to live openly, continuing in the same employment, and all under the same name. He was compliant on arrest on 4 May 2021. He has every motivation and reason to comply and resist extradition, through due process of the law, including at a final hearing in the magistrates' court, and that comes to be fixed and to take place in due course. There are no substantial grounds for considering that if released on bail he will fail to surrender, especially given his strong reasons to 'stay put'. But that is particularly so in light of the strong package of proposed conditions, which are sufficient to allay any concerns that arise. Those conditions include that he live and sleep at his home address, with an electronically monitored curfew in effect every night, with an obligation regularly to sign at the local police station, with a mobile phone switched on 24/7, with identification documents remaining surrendered, with no applications to be made for international travel documents and no travel to any international hub. Importantly, by way of conditions, there is put forward a pre-release security of £12,000, which has been increased, funds effectively released from the Applicant's savings, and being provided by his partner and her brother. Ms Collins submits that this is a significant sum to all of them and one which they could ill afford to lose: all of that I accept. That is the essence of the case in support of the grant of bail.

5. This is a case of a conviction warrant and it follows that there is in this case no presumption in favour of the grant of bail.
6. In my judgment, notwithstanding the points put forward on the Applicant's behalf by Ms Collins, there are in this case substantial grounds for considering that the Applicant will if released on bail, and notwithstanding the proposed conditions, fail to surrender. The Applicant faces a substantial term of 5 years custody. This was, on the face of the documents, a very violent offence resulting in the death of the victim and which to be characterised as murder. Even if he is right in his contention that he served 8 months on remand following his arrest in April 2015, he faces a substantial custodial term. The materials before this Court include a number of factual assertions, including as to his position in the United Kingdom and his travelling to and from Bulgaria in conjunction with the proceedings. Some of them are supported by the documents before the Court. It is not uncommon, naturally, that the Court has to consider bail on the basis of the materials put before it and on the basis of what is said as to the facts and circumstances. But in my judgment it is right to have regard to the fact that I am in no position to make a series of concrete findings of fact, as a secure factual platform. I have to assess risk, based on all the materials. The appellate process has run its course in Bulgaria and, as Ms Beatty puts it, the Applicant has exhausted all appeal rights. On the face of the documents, the Applicant did not remain in Bulgaria after his trial. On his own case he was tried in his presence, and then convicted, but he came to the United Kingdom at the end of July 2017. He was sentenced in Bulgaria in September or October 2017. According to his proof of evidence, in relation to leaving Bulgaria while the process was ongoing, he says "my solicitor in Bulgaria told me not to tell the Bulgarian authorities that I was leaving the country". This description accepts that there was an action of not telling the authorities, and it seeks to attribute that action to the Bulgarian lawyer: there are

obvious concerns about both aspects of that. Whether or not the Applicant was a fugitive – about which the magistrates’ court may come to make findings of fact – the action and the circumstances are relevant when considering the question of risk and bail. In the same way, it is relevant that the Applicant was present for his appeal but then returned to the United Kingdom. Again, whether or not under specific restrictions, and whether or not he left Bulgaria as a fugitive, the fact is that on the face of it he returned to the United Kingdom rather than face serving the custodial sentence which on appeal was reduced to 5 years. The Respondent’s skeleton argument says that the Applicant “is a fugitive from justice” on the basis that he was present at his trial and at the appeal hearing and so was “fully aware of the position” when he left Bulgaria and came to the UK, and again when he came back here. Whether or not he is or is found to be a fugitive in all the circumstances, I am satisfied for the purposes of the bail application that I should proceed on the basis that he was present at his trial, and again at the appeal hearing, and that he was aware of conviction, and subsequently aware of sentence, when he left Bulgaria (on each occasion) to come to the United Kingdom rather than stay and face the consequences. I add to these considerations that the period from July 2017 to the present is not a long one, and the Bulgarian legal process has been known to be underway throughout that period, with what Ms Beatty rightly characterises as the ‘precariousness’ of the roots and ties put down during that period. I have had regard to the fact that the Applicant says he was previously in the UK between 2006 and March 2013. The extradition hearing in the magistrates’ court, although no longer imminent, will involve a date to be fixed at a CMC on 21 July 2021. Ms Collins says it is likely that the hearing will now be in the autumn, a few months away.

7. In my judgment, looking at the case objectively, and in the light of what I have been told, there is a substantial risk that the Applicant will perceive the alternatives open to him as being forced return to Bulgaria to serve the sentence of 5 years custody or alternatively absconding. I have considered the circumstances as they are described, in relation to the relationship with the partner and her medical needs and ongoing treatment, and the needs and vulnerability as to her adult son, but including also the fact that they do not themselves have any children, and that they are living in rented accommodation having come to the United Kingdom in July 2017. In my assessment, there is not here a sufficient anchor to allay the concerns about the Applicant – whether leaving and relocating with, or without, his partner – failing to surrender. I note that, according to his proof of evidence, the Applicant had said to his partner: “I should return to Bulgaria to face the sentence” but that “she has persuaded me not to go”. The Applicant is resisting extradition. It may be that, if released on bail on the proposed conditions, the Applicant would comply and continue to resist extradition through the legal process. But in my judgment there are substantial grounds for believing that if released, and notwithstanding the proposed conditions, he would abscond and fail to surrender. The application for bail is refused.