



Neutral Citation Number: [2021] EWHC 2379 (Admin)

Case No: CO/2695/2021

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

Royal Courts of Justice
Strand, London, WC2A 2LL

24th August 2021

Before :

MR JUSTICE FORDHAM

Between :

LINAS TRIJONIS
- and -
**KLAIPEDA CIRCUIT COURT, REPUBLIC OF
LITHUANIA**

Applicant

Respondent

Laura Herbert (instructed by EBR Attridge LLP Solicitors) for the **Applicant**
Stefan Hyman (instructed by Crown Prosecution Service) for the **Respondent**

Hearing date: 24.8.21

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 R Fordham'.

.....
THE HON. MR JUSTICE FORDHAM

Note: This judgment was produced and approved by the Judge.

MR JUSTICE FORDHAM :

1. This is an application for bail in an extradition case. The case arises out of a conviction European Arrest Warrant (EAW) and it is common ground that there is therefore no presumption in favour of the grant of bail. Also common ground is that this Court's jurisdiction is to consider the question of bail afresh, not to exercise a supervisory review over previous refusals of bail in the magistrates' court. The hearing was in person. The Applicant is aged 48 and is wanted for extradition to Lithuania. The EAW was issued on 25 November 2014 and certified on 4 December 2014. It takes effect under the Trade and Cooperation Agreement in light of the date of the arrest. The index offending was a shooting which took place in Lithuania on 18 November 2011. The Applicant, if returned to Lithuania to serve his custodial sentence, faces 3 years imprisonment, less 2 days that he served on remand in Lithuania and any qualifying remand in this jurisdiction. He was arrested on 1 April 2021.

2. At the heart of the application for bail is the position of the Applicant's very long-standing partner and the child prematurely born on 6 August 2021 to them both. Central to the application are the anxious concerns relating to the welfare of child and mother, and the implications of all of this so far as concerns the risk of failure to surrender or absconding. On the evidence the couple had been trying for a baby for some 12 years and the partner has sadly had 6 miscarriages including one ectopic pregnancy. The pregnancy was known to be a very difficult one with vulnerability for mother and the unborn baby. The baby was born, as I have said, prematurely: some 13 weeks early at 27 weeks and 5 days and with the severely low birth weight of just 455g. I have seen the photographs and some of the medical records. The baby is currently on a ventilator and having treatment including blood transfusions every other day. The partner is in accommodation near the hospital and spending her time in the armchair next to the incubator. I accept that these are anxious circumstances, giving rise to grave concerns, and involving trauma for the partner but also for the Applicant. I also accept that the baby is likely to be in hospital for many, many weeks to come and that there is in these circumstances objectively no realistic prospect of the partner seeking to leave the United Kingdom, where moreover she has been since 2004 and has a successful business, whatever the position relating to the Applicant. A letter from the NHS authorities which has been placed before the Court asks that whoever may have the power to do so to provide support in allowing the Applicant as the father to support the family through this very difficult time. Material provided to update me today describes vividly the fear in which the partner is currently living. In these circumstances, what is said is that there is no realistic prospect objectively that the Applicant would seek to abscond, leaving his partner and the young baby, given the very poorly nature of the baby, all in the context of this 15 year relationship and the 12 year quest to have a child together. These features are put alongside the other circumstances in the case. The partner is prepared to put forward her own passport, surrendered as a condition for the bail. There is also – based on the partner's dog-breeding business – what I am told is the entirety of their savings, together with some money from friends, constituting a £50,000 pre-release security. For the Applicant to abscond would place the partner in huge jeopardy, including in relation to the mortgage that she has and has had for many years in relation to the home which they have occupied together, on the evidence since 2010, a property which she has occupied since 2006. In all those circumstances and given stringent further bail conditions including the proposal of a GPS location tag, I am invited to the conclusion that there are no substantial grounds for considering that

the Applicant if released on these conditions would fail to surrender. That would be the gateway to an act of granting bail, an act which would recognise the trauma and clear need for support on the part of the partner in particular, allowing them to be reunited and face the extremely difficult current circumstances together.

3. As is obvious, this is a case which calls for the most anxious consideration.
4. I am not going to grant bail in this case. That is because, assessing the circumstances of the case objectively, including the present circumstances and their implications, there are in my assessment nevertheless substantial grounds for believing that the Applicant if released by the court on bail would fail to surrender and would seek to abscond in the context of his extradition proceedings. The very anxious and troubling considerations which I have summarised do not, in my judgment, provide an anchoring effect which allays the concerns that arise, nor do the proposed bail conditions including the very high level of pre-release security do so.
5. The first point in my judgment which supports the conclusion at which I have arrived concerns the index offending and its implications. This was a shooting by the Applicant of another individual, in the back, in broad daylight in November 2011. The bullets from the firearm punctured the body of the victim. The index offence is one of seriousness and the central focus is presented by the three years custody which the Applicant faces were he extradited to serve his sentence in Lithuania. His period on qualifying remand since his arrest on 1 April 2021 gives him some 5 months of credit against that three-year sentence, as things stand. The Applicant's extradition hearing is described in the papers as having been fixed for 27 September 2021 in the magistrates' court. It is therefore imminent. Notwithstanding the Article 8 ECHR argument, and the anxious considerations which no doubt will be put forward, and without expressing a view on issues with another judge or other judges will have to consider and evaluate, material to the assessment of risk is that the Applicant may very well perceive that he faces the prospect – in the near future – of being removed to Lithuania to serve the remainder of the three-year sentence. The points relating to his wish not to be separated, and not separated for any substantial period of time, from the partner and child – with whom he would want to continue to live – need to be seen against that background. One possibility is that the Applicant will see the current situation is one in which he should stay and comply and resist extradition through the legal process. There is clearly also a strong possibility that extradition and the custodial sentence would be the last thing on his mind in circumstances where the baby and partner are, together with him, in the situation that I have described. But the position in the extradition proceedings and the substantial sentence that he faces serving in Lithuania in my assessment serve as strong incentives so far as failure to surrender is concerned.
6. The second feature which strongly weighs in my assessment of the balance of risk is this. On the face of it, there is an evidenced case that the Applicant avoided these very matters (accountability under the criminal process for the shooting) through fugitivity and the crossing of borders. I am not making any finding of fact in relation to fugitivity which is another issue which will have to be evaluated by another judge on another day. But for the purposes of an objective assessment of risk, on the face of it, the position is this. The Applicant appeared in person at his trial, charged with the shooting offence. He was then convicted. Notwithstanding that there was an appeal, which in the event was unsuccessful, he returned to the UK from Lithuania. In my assessment, it is appropriate for the purposes of today to proceed on the basis that there are substantial

grounds for considering that he came back here as a fugitive, in relation to these very matters. That then, in my assessment, strongly weighs in the balance.

7. The third feature of this case which in my assessment is inescapable is the evidenced description of the false name twice given by the Applicant to a plainclothes police officer at the time of his arrest, in answer to a simple question. The Applicant has put forward an explanation, namely that he was confused or in doubt as to who was confronting him on 1 April 2021, in circumstances where it was a plainclothes officer in an unmarked car. That is said to be why he gave a neighbour's name. Assessing risk objectively, that episode – together with that explanation – give rise, in my judgment, to serious concerns.
8. I make no bones about it: for the sake of the partner and the baby I wish I could grant bail in this case. I also think if I were a prison governor with a power to allow release accompanied by a custody officer so that the Applicant could attend the hospital on an occasion or occasions I would be strongly inclined to exercise that power if I possibly could. I do not know whether there are such powers. I do not know what criteria or resource, or practical implications arise for those who have them, if such powers exist. I do not, for the purposes of bail, need more information about those matters. My role is to address whether it is appropriate to release the Applicant today on the conditions put forward. As Counsel on both sides rightly recognised, that question has to be addressed through the prism of whether there are substantial grounds to consider that the Applicant will fail to surrender if released on conditional bail. That is the prism through which I have necessarily looked at this very sad and anxious case. The circumstances do not, in my assessment, rebut or displace the starting position of no presumption in favour of the grant of bail. The circumstances, which I have described, support the assessment that there are the substantial grounds which I have described.
9. In those circumstances, bail is refused.

24.8.21