



Neutral Citation Number: [2021] EWHC 3070 (Admin)

Case No: CO/3747/2021

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

Royal Courts of Justice
Strand, London, WC2A 2LL

16th November 2021

Before:
MR JUSTICE FORDHAM

Between:

BENIAMIN MATIAS
- and -
GHITULETE BAINC TIMISOARA DISTRICT
(ROMANIA)

Applicant
Respondent

Natasha Draycott (instructed by GSG Law Ltd Solicitors) for the **Applicant**
Jonathan Swain (instructed by Crown Prosecution Service) for the **Respondent**

Hearing date: 16/11/21

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.

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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.

MR JUSTICE FORDHAM:

1. This is an application for bail in an extradition case, bail having been refused in the magistrates' court: by DJ Griffiths on 29 September 2021 and by DJ Snow on 6 October 2021. The Applicant is aged 26 and is wanted for extradition to Romania. That is in conjunction with a conviction Arrest Warrant issued on 10 August 2021 and certified 16 days later. The form recording DJ Snow's refusal of bail contains an inapt reference to the Applicant being afraid of "severe punishment if convicted". Happily it is clear from the lawyers' notes of DJ Snow's contemporaneous reasons that that was a rogue reference and DJ Snow understood the nature and circumstances of this conviction warrant and of the index sentence. The index offending is an offence of driving without a licence in Romania in December 2016, in respect of which the Applicant received a 12 month custodial sentence, all of which remains unserved. Ms Draycott emphasises that the Applicant has now been on qualifying remand of some three months and, unless released on bail, will have served five months of qualifying remand by the time of his extradition hearing next February. The application for bail invokes section 22(1A) of the Criminal Justice Act 1967 and my function involves looking at the question of bail "afresh". In those circumstances it is perhaps neither here nor there what the reasons for previous refusals of bail were. I have to roll up my sleeves, with Counsel's help, and consider the bail merits. That is what I have done. The hearing was in person. Bail as opposed on the basis that there are substantial grounds for believing that the Applicant will fail to surrender.
2. The case for bail, as set out by Ms Draycott in writing and in her oral submissions, was – in essence, as I see it – as follows. The Applicant has been in the United Kingdom for some 11 years. He has strong ties here. In particular, he has a long-standing relationship with his partner of seven years, and they have three children: aged three, five and six. As his proof of evidence and his partner's witness statement explain, the family and the young children are reliant currently on Universal Credit and are struggling in the Applicant's absence as husband and father, and as a painter-decorator breadwinner. The Applicant has, as I have said, been on remand now for a "sobering" three months, since being arrested on 25 August 2021. He has learned his lessons, and it is highly unlikely that he would do anything other than comply. The three months is a significant period of custody in the context of a 12 month custodial sentence, already reduced by one-quarter by way of qualifying remand. The Applicant has good reason to engage with the process. He is actively seeking to have the Romanian sentence transferred, to be able to serve it in this jurisdiction. That is something which the domestic (UK) authorities have in principle accepted, while the Romanian response is awaited. If the sentence were transferred to this jurisdiction he would expect to be released after half: that is, after serving six months (including qualifying remand). The Applicant also has his extradition hearing scheduled for 2 February 2022, at which I am told he will raise as reasons to resist extradition: Article 8 ECHR; passage of time (section 14); and a rule of law (section 2) argument. Although it is accepted that technically he is a fugitive, having on the face of the documents being summonsed in person in 2020, Ms Draycott emphasises that that was during the pandemic when there will have been difficulties so far as flights to Romania were concerned. She emphasises that the entirety of the background will have been known to the Central London magistrates' court who, on 1 September 2021, sentenced the applicant in relation to some domestic matters, and in doing so was satisfied that a suspended sentence (of eight weeks custody) was appropriate. She

also emphasises that the Applicant's partner has no wider family support here in the United Kingdom. Any concerns that arise in relation to failure to surrender are convincingly allayed by the stringent proposed bail conditions put forward (or any more stringent equivalent which this Court considers appropriate). The proposed conditions include a residence condition at the family's rented home, a nine-hour electronically-monitored curfew (9pm to 6am), regularly reporting to the local police station, the surrender of his passport, contactability through a mobile phone 24/7, the usual restrictions on obtaining international travel documents and visiting international travel hubs, and finally a £4,500 pre-release security gathered together through family and friends.

3. I am not going to grant bail in this case.
 - i) The starting point is that this is a conviction extradition arrest warrant case, which means there is no presumption in favour of the grant of bail.
 - ii) On the face of it, the Applicant has an evidenced pattern of disregard for requirements of the law. That includes his action in Romania in December 2016 of driving without a licence (as to which he says he was learning and driving supervised, as he believed himself entitled to do). It also includes an action of driving without insurance in Germany in January 2019. To those can be added an action in the UK in August 2020 of driving without insurance, and on the same occasion refusing a specimen. Then there is another action of again driving without insurance, and without an MOT certificate, here in the UK in April 2021.
 - iii) Then, on the face of it, the Applicant also has an evidenced and recent pattern of disregard for orders made by courts. In his presence in August 2020, he was ordered to be disqualified from driving for 16 months by the Leeds magistrates' court. He defied that order. He was found to be driving while disqualified in April 2021. He was again found to be driving while disqualified in August 2021. On the latter occasion, the officer's arrest statement records that the Applicant was also driving at excessive speed of over 100 mph.
 - iv) Moreover, when the Applicant was arrested in August 2021, the arresting officers found on his record that he was wanted for failing to attend at Tameside magistrates court (on 3 April 2021) and for failing to attend court in Folkestone magistrates (on 20 July 2021). I have in mind that those failures to attend court when required to do so were not pursued, as they could have been, as a matter of proof before a court. Nevertheless, in my assessment, these features of the Applicant's record are relevant when I am assessing risk, on all the material before the Court, including the other patterns to which I have referred.
 - v) I also bear in mind that the case against the Applicant includes a claim to being a fugitive in relation to the offending which is the subject of extradition. As I have explained, the Respondent's case is that the Applicant was personally summonsed in 2020. Ms Draycott, as I have recorded, has accepted – for the purposes of today – that technically the applicant was a fugitive, though she has drawn attention to the pandemic. I am not in any position to make a finding of fact about fugitivity, either way. But I am satisfied that is a relevant

feature to have in mind when considering risk. Having said that, in fairness and for reasons of transparency, I should make clear that even had this feature not been present I would not have been granting bail.

- vi) I accept that custody – and the nine months custody which remains to be served (or possibly three months after transfer of sentence to serve here, if that occurs) – can weigh heavily on the Applicant and for his young family. However, in my assessment, that is also a feature which would stand to incentivise him seeking to avoid having to serve that sentence, with the adverse consequences for himself, his partner and their young children, if he can.
 - vii) Also relevant, in my assessment, is the evident mobility in someone who came to the UK in around 2010, but who is known to have been driving in Romania in December 2016 and in Germany in January 2019 and in different parts of the United Kingdom.
4. There is in this case a repeat and recent pattern of disregarding court orders, as well as – on the face of it – failures to attend at courts when required to do so. The proposed bail conditions, including what I accept is a substantial pre-release security for this family, do not allay the concerns that arise in this case. Nor, in my assessment, is there a sufficient ‘anchoring’ effect in all the circumstances of the case: whether linked to the anticipated resistance of extradition; or linked to the attempt to have the sentence transferred; or linked to the family and their roots in the UK; or linked to the proposed bail conditions including the pre-release security; or linked to all of these features in combination. In my assessment, there are substantial grounds for believing that if released on bail – on the proposed bail conditions – the Applicant would fail to surrender. Bail is refused.

16.11.21