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IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

[2022] EWHC 1586 (Admin)



No.CO/1438/2022

Royal Courts of Justice

Wednesday, 4 May 2022

Before:

MR JUSTICE CHAMBERLAIN

B E T W E E N :

ISA ERTEM Applicant

- and -

BELGIUM Respondent

MS C. STEVENSON (instructed by Morgan Has Solicitors) appeared on behalf of the Applicant.

MR D. BALL (instructed by CPS Extradition Unit) appeared on behalf of the Respondent.

J U D G M E N T

MR JUSTICE CHAMBERLAIN:

- 1 This is an application by Isa Ertem pursuant to section 22(1)(a) of the Criminal Justice Act 1967 for bail. The applicant is sought to stand trial by Belgium on one charge of people trafficking. That is set out in the European arrest warrant. The offence carries a prison sentence of 10, up to 15 years. Mr David Ball, who appears for the Belgian Judicial Authority, agreed with me that it is likely that that means a maximum of 10 years imprisonment, rising to a maximum of 15 years' imprisonment, if certain aggravating factors are found.
- 2 The conduct alleged is said to have taken place between 1 January 2021 and 1 August 2021. There is particular reference to events on two days, 30 July and 1 August in Nieuwpoort, Belgium.
- 3 There had been two applications before Westminster Magistrates' Court for bail following the applicant's arrest on 23 February 2022. There was a bail application on the following day before District Judge Zani, who refused bail. There was a second application on 3 March before District Judge Godfrey. On that occasion a security of £40,000 was proposed, but bail was nonetheless refused on the grounds that in District Judge Godfrey's view there was substantial grounds to believe that the applicant would fail to surrender.
- 4 Ms Claire Stevenson has put forward today in writing and orally all the points that can properly be put forward on behalf of the applicant. She stresses that the applicant is of good character, has no previous convictions and has various health concerns. Some of these concerns arise as a result of a splenectomy which he had some years ago. That has given rise to mobility problems and other difficulties. He also takes regular medication for a heart condition and to protect against stroke. Since being remanded in custody he has spent at least five days in the prison hospital wing.
- 5 Ms Stevenson notes the applicant's strong family ties to the United Kingdom. He normally resides in North London with his wife and two young children, who are 9 and 12. There is also another individual who regards him as a father, who is 22 years old and is a student. I have seen in the papers written materials from the latter individual and also from the applicant's wife who sets out, in compelling terms, the difficulties which she is suffering with her own health and the difficulties which she fears he will suffer because of his health conditions in prison. As I have said, a security of £40,000 is offered. That has been offered by a number of individuals in respect of whom there is some information before the court.
- 6 Despite the powerful submissions made by Ms Stevenson, and despite the presumption in favour of bail which the applicant enjoys because he is sought on an accusation warrant, I am satisfied that there are substantial grounds for believing that he would fail to surrender to custody if bailed.
- 7 The grounds are as follows. First, the applicant is sought to stand trial for a serious offence. As the European arrest warrant makes clear, the maximum sentence for that offence is either 10 or 15 years. There is some evidence from the applicant that the actual sentence which is likely in this case is between 1 and 3 years, and that sentence might or might not be deferred, i.e. suspended. Even taking the applicant's evidence at its highest, coming as it does from his Belgian lawyer, there is a serious possibility that if convicted of this serious offence, the applicant will face a substantial custodial term. That must operate as a powerful incentive to abscond.

- 8 The second feature which is of relevance here is that the offence for which the applicant is sought is one of people trafficking. That offence by its nature involves the illicit transfer of people across borders, and normally with fake documents. That background gives significant cause for concern that the applicant would have the means, if he were to wish to do so, to abscond.
- 9 The third feature in this case is that the applicant is a man of Turkish origin who has substantial connections with Turkey. At the time of his arrest on 23 February 2022 he had in his possession a one-way ticket to Turkey, although his wife's account is that this was a trip they were both taking in order for her to have medical procedures in Turkey. There is a substantial concern in my mind that his connection with Turkey would afford him the opportunity to abscond if he were to wish to do so.
- 10 Fourth, although I have considered carefully the various medical conditions from which the applicant suffers, there is a presumption that UK prisons, including HMP Wandsworth, will have adequate arrangements to deal with such conditions. I was initially attracted by the argument that these medical conditions make it somewhat less likely that he would wish to abscond because of the need for pretty constant medication, but overall I think that argument is outweighed by the connections which I have mentioned this applicant has to Turkey where medical treatment would be available to him if he chose to go there.
- 11 Although I have borne in mind that a relatively substantial security in aggregate has been put forward by various individuals who obviously have confidence in the applicant, I am not satisfied on the facts of this case that that is sufficient to displace the grounds for believing that the applicant may fail to surrender if bailed.
- 12 For those reasons, I refuse bail.
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CERTIFICATE

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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This transcript has been approved by the Judge.