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*Judgment: approved by the court for handing down
(subject to editorial corrections)**

Delivered ex tempore:
25/11/2024

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

THE KING

v

SHAKIR RAZA

IN THE MATTER OF AN APPLICATION FOR BAIL

Mr Thomas McKeever (instructed by Paul D Thompson Solicitors) for the Applicant
Mr Adrian Higgins (instructed by the Public Prosecution Service) for the Crown

McCLOSKEY LJ (*ex tempore*)

Introduction

[1] This is a far from straightforward case because of the significant sensitivities involved. The only way in which the court could satisfactorily and fairly manage the bail application, simultaneously respecting the rights and interests of the injured party and others, was to ask for specified information, particularly the objections to the grant of bail, supplemented by certain further information requested by the court, to be provided securely to the court alone by the investigating police officer.

[2] Before taking that step, the court enquired whether there would be any objection to that course. Had there been any objection, the court would have had to consider its merits and take it into account before determining to proceed whether as I have indicated or otherwise. Sensibly, there was no objection from Mr McKeever on behalf of the applicant and, while that was not determinative, I nonetheless, decided that this was the only feasible and fair way of determining this difficult and sensitive application for bail.

[3] The hearing was adjourned for that purpose, and I have received from the investigating police officer the information that I requested, by a secure mechanism.

There has been admirable cooperation by the police officer with the court. All that I have asked for has been clearly and fully addressed in the private communication between the investigating police officer and the court. I have convened a further inter-partes hearing today and have considered the parties' further representations.

[4] In determining this application for bail, it has been necessary to balance a number of competing considerations. First, it has been represented to the court that until now no stable acceptable bail address was available to the applicant. That difficulty has now been overcome. Next, Mr McKeever draws attention to the factor of delay in the prosecution and the lengthy period of remand detention to date. The court must also take these factors into account.

[5] The very serious nature of the allegations against the applicant cannot *per se* be an objection to granting bail. The relevance of the offences alleged is confined to how they bear on the objections to the grant of bail. The court must keep in mind that the applicant has been remanded successively for the offences specified in the charge sheet. As I have occasion to remind practitioners from time to time, that means, properly analysed, that the Magistrates' Court has been satisfied that the test for remand, namely a sufficient case against the applicant, has been satisfied.

[6] The objections to the grant of bail include the risk of flight. This is couched in bare terms and in my judgement is makeweight in nature particularly on account of the powers available to this court. I make the same assessment of any suggestion of reoffending, adding the consideration of the absence of any criminal record. That brings me to what is, in my estimation, the central live objection to the grant to bail. It is clear beyond peradventure that this objection is the risk of the applicant contacting the injured party or any other member of the family. The estrangement which has been generated by the alleged offending means that the applicant (on the one hand) and the injured party, her mother and her sibling (on the other) are entirely separated and, it would appear, are likely to remain so indefinitely if not permanently.

[7] Contacting in any way, or threatening to contact any of those three persons, in particular the injured party, would be an infringement of their rights under Article 8 of the Human Rights Convention, contrary to section 6 of the Human Rights Act in certain circumstances viz if there were any orchestration or toleration of such contact by any relevant public authority. That includes the court. It also includes the Police Service and the Public Prosecution Service. Realistically, it is unlikely that a serious Article 8 issue would arise viz a viz either of those agencies. In contrast, the court owes a duty under section 6 not to contravene the rights of any of those three persons under Article 8 of the Convention. That means that there is a concrete Article 8 issue. In any event, even if there were not, the concerns of the kind that I have identified would be fully engaged through the established bail issue of interfering with the course of justice.

[8] Having articulated the central objection to the grant of bail, one of the offshoots of that objection, having regard to all the information available to the court, is the risk

that the applicant might orchestrate in some way improper contact not personally but through third parties.

[9] In conventional parlance, the central objection which arises in the matrix which I have outlined is the risk, as it is commonly put, of interference with witnesses: in this context primarily, but not exclusively, the injured party. In other words, contact of this kind would have the real risk of deterring the injured party and, perhaps, others from maintaining their allegations against the applicant and, ultimately, from giving evidence in court – or, alternatively, would risk corrupting their evidence.

[10] Against that framework the fundamental question for the court is whether those concerns can be adequately addressed by bail conditions and by that I mean efficacious, realistic and proportionate bail conditions, weighing simultaneously the other factors that I mentioned at the outset of this ruling and balancing everything. In what is clearly a borderline case, I have come to the conclusion that the scales are tipped marginally in favour of the grant of probationary, provisional bail.

[11] The court will admit the applicant to bail, accordingly. There will be a lodgement of £3,000 cash by the applicant via his solicitors. Second, there will be a lodgement of a separate sum of £1,000 to be provided by the surety, the applicant's brother, who will be identified in the bail order. The applicant will be admitted on his recognisance of £1,000. That deals with sureties and recognisances.

[12] The bail conditions are the following:

- (i) As a pre-requisite to being released from custody, the applicant will surrender any passport or other identity or travel document.
- (ii) He will reside at the address proffered and at no other address. That address is identifiable in the papers and, given all the sensitivities, I am not broadcasting it in open court deliberately.
- (iii) He will report three times weekly to the police.
- (iv) He will observe a curfew with electronic monitoring between the hours of 8pm and 8am.

Pausing, I am aware of the applicant's business and the nature of the business, but I am also weighing what I was told on enquiry, namely that the business has continued in his absence. So, he will be available to contribute to the operation of the business outside the hours of the curfew. That is fair and proportionate in all of the circumstances.

- (v) The applicant will not contact or attempt to contact or communicate in any way with the injured party or either of the other two members of his family whom I have mentioned. Those three names will be specified in the bail order.

- (vi) The applicant will not attempt to contact or communicate with any of those three persons through or at the instigation of any other person.

The distinction between those two conditions, I trust, will be absolutely clear to everyone.

[13] I emphasise that this is a grant of provisional, probationary bail. The court will initially review this at intervals of two weeks. That means that the applicant's legal representatives will have a duty to communicate in appropriate terms with the court at two-weekly intervals. Secondly, it means that the Public Prosecution Service and the Police Service will have the opportunity to do likewise. I will remain seized of the case for the intermediate future, and I will take appropriate action at each of those intervals having considered all further information brought to the attention of the court.

[14] In the meantime, for the continued protection of the other persons involved, the sensitive information will remain with me, securely stored.