

---

CANADA / JUDGMENT

## R. v. Uppal

2003 BCCA 571

---

COURT

British Columbia Court of Appeal

DECIDED

29 October 2003

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

---

2003BCCA0571.htm

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation:

R. v. Uppal,

2003 BCCA 571

Date: 20031029

Docket: CA31215

Between:

Regina

Respondent

And

Hardip Singh Uppal

Appellant

Before:

The Honourable Chief Justice Finch

(In Chambers)

J.S. Stowe

Counsel for the Appellant

R. Keefer

Counsel for the Respondent

Place and Date of

Written Submissions:

Vancouver, British Columbia

Appellant: September 16, 2003

Respondent: September 19, 2003

Place and Date of Judgment:

Vancouver, British Columbia

October 29, 2003

Reasons for Judgment of the Honourable Chief Justice Finch:

- [1] Mr. Uppal applies in writing under the provisions of s.680(1) of the Criminal Code for a direction from the Chief Justice of the Court of Appeal that the decision(s) of a judge refusing him bail be reviewed by the Court of Appeal. The Crown opposes the application on the grounds that during his prior release from custody pending trial, the appellant was in flagrant breach of the condition of his release which prohibited him from having contact with certain named persons. The Crown contends that the appellant's detention in custody was therefore justified under the provisions of s.515(10) of the Code, because his detention was necessary for the protection or safety of the public in that if released there was a substantial likelihood the appellant would interfere with the administration of justice.
- [2] Mr. Uppal was charged, together with Ravinder Singh Soomel and Gurwinder Singh Mann, with first degree murder in the death of Gurbureet Singh Sohi on 14 September 2000.
- [3] On 27 October 2000, Mr. Uppal was granted bail, upon his entering into a recognizance with sureties, and upon certain conditions, including a prohibition of any contact with a number of persons including Harkemal Singh Chohan and Paul Gill. The bail order was subsequently varied in ways not pertinent to the present application.
- [4] On 31 May 2002, Mr. Uppal applied to vary condition one of the recognizance by changing the first sentence to read:

You are under house arrest and are to remain in the home located at the address set out in Mr. Stowe's [counsel's] letter of May 31, 2002 which is sealed on file.

- [5] The Crown consented to the application, and to the variance sought. The variance was granted.
- [6] In the course of voir dices conducted in the spring of 2002, before a jury was empanelled, police learned through intercepted private communications that Mr. Uppal had been in contact with Mr. Gill and Mr. Chohan in the period between 17 April 2002 and 23 May 2002.

- [7] On 28 June 2002, a warrant was issued for Mr. Uppal's arrest pursuant to s.524 of the Criminal Code. He surrendered himself to the police the same day. On 19 July 2002 the voir dires concluded, and Mr. Uppal brought on an application for judicial interim release.
- [8] On 24 July 2002, Mr. Justice Bauman ruled that he would not grant Mr. Uppal's re-admission to bail. In brief oral reasons he said:
- [2] The submissions of Mr. Stowe and Mr. Keefer on the application set out the undisputed facts. As well, Exhibits A and B on the application support my finding of fact that you have on numerous occasions and over an extended period of time breached your conditions of bail by being in contact with Mr. Gill and Mr. Chohan. That is bad enough but you have coupled those contacts with, I find, efforts to influence evidence they will give at the trial in this matter.
- [3] Given this flagrant and continuing disregard for the conditions of your bail granted by Associate Chief Justice Dohm, I have concluded that your detention is necessary on the secondary and tertiary grounds. On the secondary ground in particular, in my view, if released there is a substantial likelihood that you will interfere with the administration of justice.
- [9] On 21 November 2002, the Crown severed the trial of Mr. Uppal from the trial of his two co-accused. The Crown advised of its intent to subpoena Mr. Uppal as a witness in the trial of Mr. Soomel and Mr. Mann.
- [10] On 27 December 2002, Mr. Uppal was served with a subpoena to testify for the prosecution at the Soomel/Mann trial.
- [11] On 24 April 2003, Crown counsel interviewed Mr. Uppal in relation to his anticipated testimony in that trial. In the course of that interview, Crown counsel learned of a conversation on 27 September 2002 between Mr. Uppal and Mr. Soomel in cells in the North Fraser Regional Centre.
- [12] On 7 May 2003, counsel appeared before Associate Chief Justice Dohm. Crown counsel sought an adjournment of Mr. Uppal's trial, and that was not opposed by his counsel. The trial was adjourned to the fall of 2003, and a new trial judge assigned.
- [13] The jury in the Soomel/Mann trial returned a verdict of guilty of first degree murder on 31 May 2003.
- [14] On 26 June 2003, Crown counsel filed a new indictment against Mr. Uppal alleging conspiracy with others to commit the murder of Mr. Sohi, and alleging the substantive offence of Mr. Sohi's murder.

- [15] On 6 August 2003, counsel for Mr. Uppal filed a petition seeking an order vacating the order of 24 July 2002 denying Mr. Uppal judicial interim release. That application was heard by Mr. Justice Bauman on 29 August 2003. Judgment was reserved. Reasons for judgment were pronounced on 4 September 2003. Mr. Justice Bauman denied Mr. Uppal's application for judicial interim release.
- [16] In dismissing that application the judge said:
- [8] In fact, Mr. Uppal's contact with Gill and Chohan was much more extensive than any of us first realized. Mr. Uppal has been in contact with Gill and Chohan on at least 171 occasions in the past three years. We know that because Mr. Uppal audiotaped his telephone conversations and meticulously kept the tapes: See my Judgment in *R. v. Soomel and Mann*, 2003 BCSC 140.
- [9] We have in Mr. Uppal, on the one side, an excellent candidate for bail. He has no criminal record, he is an accomplished student and athlete, he has been a community volunteer and he enjoys the strong support of his extended family.
- [10] On the other side, however, we have an individual who has repeatedly and flagrantly breached the conditions of his bail by contacting the principal Crown witnesses and by endeavouring, I found earlier and I confirm now, to influence their testimony at trial. In the end, I regret that I cannot ignore that conduct and the firm likelihood that Mr. Uppal, if released, will interfere with the administration of justice.
- [17] The test under s.680(1) for a direction to review a refusal of bail is a low threshold. The test is whether there is any reasonable prospect of success on a bail review hearing: *R. v. Schemmann* (June 29, 1994), Vancouver Registry CA018477 (B.C.C.A.); or whether the court applying the law could possibly conclude that the application for release should have been allowed: *R. v. Gill*, [2001] B.C.J. No. 1993 (C.A.).
- [18] On this application for a direction to review, the material filed on the applicant's behalf suggests that he will rely upon the defence of duress. The theory proposed is that Mr. Uppal participated in the killing of Mr. Sohi only from fear that Mr. Soomel, the ring-leader, would kill him if he did not. The applicant also proposed to lead evidence that Mr. Soomel is a dangerous man, and known to the police as a prime suspect in several other uncharged murders.
- [19] The Crown concedes that these two matters may well be live issues at trial, and that the defence of duress is open to Mr. Uppal, depending on the evidence that may be placed before the jury. The Crown points out however that the success of the defence will be determined in large part by the evidence of the two witnesses Mr. Chohan and Mr. Gill, with whom Mr. Uppal was prohibited from having contact.

- [20] It is evident from the material before Mr. Justice Bauman at both of the two bail hearings that following his release Mr. Uppal contacted both Mr. Gill and Mr. Chohan and attempted to influence their evidence. This was not incidental contact, but rather "flagrant and continuing".
- [21] There appears to have been ample evidence to support the learned chamber judge's conclusions in this regard.
- [22] In my view, therefore, the only proper course for the learned chambers judge to follow was to order the continued detention of Mr. Uppal. It does not appear to me that this court could possibly reach another conclusion.
- [23] It should also be observed that there is nothing in the material before me to suggest that Mr. Uppal would desist in such conduct, if he were to be released. In my opinion, there continues to be a substantial likelihood that Mr. Uppal will attempt to interfere with the administration of justice if he were released on bail.
- [24] I therefore refuse the application to direct a review.

"The Honourable Chief Justice Finch"

---

### Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

**ORIGINAL SOURCE**      <https://www.bccourts.ca/jdb-txt/ca/03/05/2003bccca0571.htm>

**CASE PAGE**              <https://chat.esheria.ai/case-law/canada/r-v-uppal-2003>

Prepared on 26 October 2026 · Esheria