

CANADA / JUDGMENT

United States v. Sari

2025 BCSC 93

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2025 BCSC 93 United States v. Sari

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

United States v. Sari,

2025 BCSC 93

Date: 20250110

Docket: 27796

Registry: Vancouver

In the Matter of the Extradition Act, S.C. 1999, c. 18 as amended

Between:

The Attorney General of Canada on behalf of The United States of America

Requesting State

And

Sayed Abood Sari

Person Sought

Before: The Honourable Justice Tammen

Oral Reasons for Judgment

Counsel for the Attorney General of Canada on behalf of the Requesting State:

A.S. Sanghera

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A. Robertson, Articled Student (November 18, 2024 only)

Place and Date of Hearing:

Vancouver, B.C.

November 18-19, 2024

Place and Date of Judgment:

Vancouver, B.C.

January 10, 2025

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Introduction and Overview

- [1] The requesting state, the United States of America, seeks the extradition for prosecution of Sayed Abood Sari, for conduct that the Minister of Canada, in the Authority to Proceed, or ATP, says corresponds to fraud contrary to s. 380(1)(a) of the Criminal Code of Canada.
- [2] Broadly speaking, the theory of the requesting state is that Mr. Sari was the general manager of a Dubai-based company which was a subsidiary of Mahan Air, an Iranian airline. Mahan Air, since October 12, 2011 has been designated by the United States Department of the Treasury, Office of Foreign Assets Control (or OFAC) as a Specially Designated National, pursuant to Executive Order 13224. Executive Order 13224 establishes sanctions against specially designated global terrorists. One of the effects of those sanctions is that many U.S. financial institutions will not knowingly provide financial services to sanctioned entities, such as Mahan Air, including conducting correspondent account transactions for international U.S. dollar transfers on behalf of, or for the benefit of, the sanctioned entity. Any U.S. financial institution that did so could be subject to civil penalties or sanctions.
- [3] The further theory of the case is that Mr. Sari and others engaged in a scheme by which international financial transactions were conducted on behalf of Mahan Air by using a network of front companies and payment intermediaries, to shield the identity of the true beneficiary of those transactions from U.S. financial institutions.

- [4] It is against that backdrop that I must examine the body of evidence in the Record of the case, or ROC, and assess the arguments for and against committal for extradition. Before doing so, however, I will address the legal principles that are engaged by this proceeding.
- [5] The extradition process serves to fulfill Canada's international obligations to its extradition partners, to ensure that national boundaries do not enable escape from the rule of law, and to protect the rights of the person sought by a requesting state: *M. M. v. United States of America*, 2015 SCC 62 at paras. 1, 15.
- [6] The Extradition Act, S.C. 1999, c. 18 (the "Act"), facilitates Canada's international obligations to surrender persons found in Canada so that they face prosecution or serve sentences imposed in another country, subject to various conditions: *M. M.* at para. 14.

Test for an order of committal

- [7] The test for an order of committal is set out in the Act at s. 29(1)(a):

Order of committal

29 (1) A judge shall order the committal of the person into custody to await surrender if

- (a) in the case of a person sought for prosecution, there is evidence admissible under this Act of conduct that, had it occurred in Canada, would justify committal for trial in Canada on the offence set out in the authority to proceed and the judge is satisfied that the person is the person sought by the extradition partner []
- [8] The extradition judge is required to order the committal of the person sought if he or she is satisfied the following three elements are met (see *M. M.* at para. 36):
- (1) If the alleged conduct had occurred in Canada, it would justify committal for trial in Canada;
- (2) There is evidence of the alleged conduct which is admissible under the Act and available for trial; and
- (3) The person before the court is the person sought by the extradition partner.
- [9] The committal phase of the extradition process has "an important, but circumscribed and limited screening function": *M. M.* at para. 36. The hearing is intended to be an expedited process "designed to keep expenses to a minimum and ensure prompt compliance with Canada's international obligations": *United States of America v. Dynar*, [1997] 2 S.C.R. 462 at para. 122.

Requirement of double criminality

- [10] The first element of the test for an order of committal requires "double criminality", i.e., the alleged conduct of the accused must be criminal had it been committed in Canada: *M. M.* at para. 10. Canada should not extradite an accused to face prosecution or punishment in another country for conduct that is not criminal in Canada: *M. M.* at para. 16.

[11] Canada has implemented the double criminality principle through a conduct-based approach which does not require the extradition partner to name, define, or characterize the alleged conduct in the same way as it is in Canada: s. 3(2) of the Act. It is the "essence of the offence" that is important: *Canada (Justice) v. Fischbacher*, 2009 SCC 46 at para. 29.

Requirement of evidence that is admissible and available

Admissibility of Evidence

[12] Section 32 of the Act provides the types of evidence admissible at an extradition hearing:

Evidence

32 (1) Subject to subsection (2), evidence that would otherwise be admissible under Canadian law shall be admitted as evidence at an extradition hearing. The following shall also be admitted as evidence, even if it would not otherwise be admissible under Canadian law:

- (a) the contents of the documents contained in the record of the case certified under subsection 33(3);
- (b) the contents of the documents that are submitted in conformity with the terms of an extradition agreement; and
- (c) evidence adduced by the person sought for extradition that is relevant to the tests set out in subsection 29(1) if the judge considers it reliable.

Exception -- Canadian evidence

- (2) Evidence gathered in Canada must satisfy the rules of evidence under Canadian law in order to be admitted.

[13] Section 33(3) of the Act speaks to the admissibility of the record of the case (the "ROC"):

Certification of record of the case

33 (3) A record of the case may not be admitted unless

- (a) in the case of a person sought for the purpose of prosecution, a judicial or prosecuting authority of the extradition partner certifies that the evidence summarized or contained in the record of the case is available for trial and
 - (i) is sufficient under the law of the extradition partner to justify prosecution, or
 - (ii) was gathered according to the law of the extradition partner; or
- (b) in the case of a person sought for the imposition or enforcement of a sentence, a judicial, prosecuting or correctional authority of the extradition partner certifies that the documents in the record of the case are accurate.

Assessing the Evidence: Sufficiency vs. Reliability

- [14] A person should not be surrendered to a foreign jurisdiction unless the requesting state presents evidence that "demonstrates on a prima facie basis that the individual has committed acts in the foreign jurisdiction that would constitute criminal conduct in Canada": Dynar at para. 121.
- [15] The extradition process is not a trial and it should not be permitted to become one: M. M. at para. 2. The actual trial is to take place in the requesting state, and the role of the extradition judge is to ensure there is sufficient evidence to justify putting the person on trial: United States of America v. Ferras, 2006 SCC 33 at paras. 21, 48.
- [16] The sufficiency of evidence is a concern of the extradition judge. Reliability is not.
- [17] However, the assessment of evidence cannot be reduced to a meaningless ritual or mere formality. If the evidence presented in the record is "so bereft of detail, such as the witness' means of knowledge, that the judge cannot determine its sufficiency", committal is not justified: United States of America v. Yang, [2001] O.J. No. 3577 at para. 63, 2001 CanLII 20937 (O.N.C.A.), endorsed in M. M. at para. 51.
- [18] By contrast, admissible hearsay evidence which contains direct evidence of guilt, even second or third-hand for example, is sufficient for committal because the judge is not to assess the reliability of that evidence: Yang at para. 64, endorsed in M. M. at para. 51.
- [19] The extradition judge is not to consider whether the information in the record is actually true, nor the guilt or innocence of the person sought: Ferras at para. 68.
- [20] The evidence in the ROC is presumed to be reliable, and this presumption will stand unless it is rebutted: Ferras at para. 66. The presumption may be rebutted with evidence of "fundamental inadequacies or frailties in the material relied on by the requesting state": United States of America v. Anderson, 2007 ONCA 84, at para. 31.
- [21] An extradition judge must weigh the evidence in a limited fashion to determine if there is a plausible case. A case is insufficient for committal where "the evidence is so defective or appears so unreliable that the judge concludes it would be dangerous or unsafe to convict": M. M. at para. 40, citing Ferras, at para. 54.
- [22] The extradition judge has discretion to refuse extradition where the evidence is insufficient, including where the reliability of certified evidence is successfully impeached or where there is no evidence that the evidence is available: M. M. at para. 60.
- [23] The extradition judge is not to evaluate the relative strength of the requesting state's case. The judge cannot deny extradition "simply because the case appears to be weak or unlikely to succeed at trial": M. M. at para. 71.

Assessing the Evidence: Defences and Conflicting Evidence

- [24] The extradition judge is not to consider defences or weigh conflicting evidence other than in limited circumstances. Matters on which the accused bears an evidential burden of proof, including defences, "play no part in deciding whether the Crown's case is sufficient to put the person on trial": M. M. at para. 53.
- [25] The Supreme Court of Canada in *Ferras* did not envisage weighing competing inferences that may arise from the evidence, other than "in the limited sense noted in *R. v. Arcuri* [2001 SCC 54] of considering that the inferences sought to be drawn from circumstantial evidence are reasonable": *Anderson*, at para. 28; M. M. at para. 71.

Analysis and Discussion

- [26] There is no issue that Mr. Sari is the person sought by the United States for extradition. Exhibit 6 contains admissions of fact to that effect.
- [27] Likewise, there is no issue concerning evidence which is admissible under the Act and available for trial. The ROC contains a certification from an Assistant United States Attorney for the Southern District of New York, that the evidence summarized within the ROC is available for trial and is sufficient under the laws of the United States to justify prosecution. Mr. Sari makes no admissibility objections to any of that evidence.
- [28] Finally, Mr. Sari makes no submissions on double criminality. In *United States v. Meng*, 2020 BCSC 785, Associate Chief Justice Holmes found that "the effects of the US sanctions may properly play a role in the double criminality analysis as part of the background or context against which the alleged conduct is examined" (para. 88). Mr. Sari does not urge a contrary conclusion in this case.
- [29] The issues raised on behalf of Mr. Sari all relate to whether the available evidence is sufficient to justify committal. The legal test for committal is the same as for committal for trial following a preliminary hearing, or for a directed verdict of acquittal. That test requires the judge to determine if there is any evidence upon which a reasonable jury, properly instructed, could return a verdict of guilty: *R v. Arcuri*, at para. 21.
- [30] In this case, the entire body of evidence on which the requesting state relies is circumstantial. Much of the evidence said to form the factual bedrock for the potentially incriminating inferences consists of the fruits of searches of various email accounts, including that of Mr. Sari. The theory of the requesting state, as noted, is that those email communications reveal a conspiracy among multiple employees of Mahan Air to cause U.S. banks to conduct international financial transactions for the benefit of Mahan Air, by disguising the corporate identity of those engaging in the transactions.

- [31] The requesting state claims that Mahan Air used multiple front companies to implement the illegal scheme. An expert witness will testify that front companies are "companies that act on behalf of the sanctioned entity to send or receive wire transfers. Front companies typically have little or no independent business or financial activity of their own and primarily serve simply to conceal the involvement of the principal."
- [32] The ROC lists approximately 21 alleged front companies, but the most important, based on the content of the ROC, are these:
- 1) Jahan Destinations Travel & Tourism;
 - 2) Ascot General Trading LLC;
 - 3) Bahar Safwa General Trading;
 - 4) Grandeur General Trading;
 - 5) Hanedan General Trading;
 - 6) Megasource Business Ltd.
- [33] The ROC contains evidence from each of the relevant financial institutions that they would not have knowingly conducted a correspondent account transaction on behalf of, or for the benefit of, Mahan Air.
- [34] The requesting state asserts that the *actus reus* of fraud is proved in this case by evidence of concealment of the identity of Mahan Air as the beneficiary of the financial transactions, relying primarily on the concept of "other fraudulent means."
- [35] The corresponding deprivation, which is simply risk to the victim's economic interests, is the potential for the financial institutions to incur civil penalties or sanctions for providing unlicensed financial services, including correspondent banking services directly or indirectly to Mahan Air.
- [36] With respect to *mens rea*, the requesting state asserts that the email communications, particularly various of Mr. Sari's own emails, show that he had subjective knowledge of the prohibited acts, and that those acts created a risk that the financial institutions' pecuniary interests were put at risk.
- [37] Mr. Sari submits that he should be discharged based on insufficiency of evidence. He says that certain of the bedrock facts of the illegal scheme are not proven, and that there is insufficient evidence from which to draw the necessary inferences for committal.
- [38] Mr. Sari submits that the ROC does not disclose any transactions where he can be shown to have been the directing mind, nor that he was in a position of financial authority for any of the companies referenced in the ROC.

- [39] Mr. Sari further submits that "impermissible speculation and guessing will be required in order to infer that Mr. Sari had actually been a party to a dishonest transaction, as well as to infer that Mr. Sari had ever possessed the requisite knowledge of any dishonest scheme or intention to participate in the same."
- [40] I will return to the core of Mr. Sari's submissions, as summarized above, in due course. First, however, I observe that I agree with Mr. Sari that there is no evidence from which an inference could be drawn that the various corporate entities referenced in the ROC are indeed "front companies". There is some evidence, for instance, that several of the companies were conducting financial transactions with U.S. financial institutions in 2009, two years prior to Mahan Air being designated by OFAC. Moreover, the only evidence that the so-called front companies had no other legitimate business is that, according to the ROC, the various email accounts which were searched disclose no such business.
- [41] Failure to prove that these corporate entities were "front companies" may prove fatal to the case at trial, or it may not. However, for purposes of this hearing, that is not a matter which must be decided. At this juncture it is sufficient if the evidence shows a connection between Mahan Air and the alleged front companies which is capable of supporting an inference that certain financial transactions were done for the benefit of Mahan Air using the other company.
- [42] For all the corporate entities referred to in the ROC, there is a paucity of evidence as to corporate structure and governance. No corporate searches are referenced in the ROC.
- [43] That fact also forms at least part of the basis for Mr. Sari's further submission that there is no evidence that he was in a position of control at Mahan Air or one of its subsidiaries.
- [44] On that score, the evidence is that Mr. Sari was a manager with a company initially called Mahan Destinations Tourism LLC, later called Jahan Destinations. Mr. Sari is variously described as either the general manager or the country manager for those entities.
- [45] In July, 2007, Mr. Sari sent an email to another individual, attaching the logo for Mahan Destinations Tourism LLC, "a subsidiary of Mahan Air." On October 10, 2011, Mr. Sari sent an email which included his title as General Manager of "Mahan Destinations (G.S.A. Mahan Air)."
- [46] In December, 2011, two months after Mahan Air's designation by OFAC, Mr. Sari sent an email to himself attaching a copy of his passport. The email listed Mr. Sari's title as General Manager of Jahan Destinations. The logo for Jahan Destinations was identical for the logo for Mahan Destinations in the earlier email, except for the change in name.
- [47] It thus seems clear that an available inference is that Mr. Sari was the general manager of a company which he believed to be a subsidiary of Mahan Air, and that the subsidiary company changed its name to remove the word "Mahan" shortly after the OFAC designation.

- [48] There is evidence that Mahan Air was aware of the designation very shortly after it was made. There is evidence from which it can be inferred that Mr. Sari was aware that Mahan Air was subject to sanctions by the spring of 2014.
- [49] The thrust of Mr. Sari's submission is that the totality of the evidence in the ROC does not permit an inference that he was more than a mid-level employee, or functionary, one without any control over the company's fiscal affairs. That being so, no inference can be drawn that Mr. Sari was a participant in the allegedly illegal scheme. Neither the *actus reus* nor the *mens rea* can be inferred.
- [50] In that regard, Mr. Sari relies on *U.S.A. v. Robertson*, 2012 BCSC 1800. At issue in that case was a telemarketing scheme, a fraudulent lottery scam perpetrated by several companies owned and controlled by two individuals other than Mr. Robertson, the person sought. The evidence showed that Mr. Robertson was a salesperson, and for an unspecified period of time, the manager of one particular location. Justice Dickson (as she then was) committed Mr. Robertson on the strict liability offence of unlawful telemarketing, but not the *mens rea* offence of attempted fraud. In so doing, Dickson J. found that the evidence did not show that Mr. Robertson had control over any bank accounts, and was not an operating mind of the company, but rather was a mere functionary. That being so, no inference could be drawn that he had a subjective awareness of the intentional use of deceit.
- [51] With respect to Mr. Sari, counsel submits as follows, at para. 74 of written submissions:
- There is a lack of evidence of as to the specific responsibilities Mr. Sari held at Jahan. There is no evidence to show he was a financial officer in the company or that he was specifically involved in banking.
- [52] Then, at the conclusion of para. 77:
- There is no evidence indicating Mr. Sari had signing authority with respect to any of the various transactions. There is no evidence of any transaction where it appears Mr. Sari is directing that any transaction be made.
- [53] I generally agree with those submissions and observations about the evidence contained within the ROC. However, in my view, there is significant evidence which permits an inference that Mr. Sari had a measure of control over the banking records and financial information of Jahan Destinations and some of the other related companies.
- [54] For example, the ROC details various emails between Mr. Sari and people said to be employees of Mahan Air, including alleged co-conspirator Ali Akbari Nakhjavany, in 2013 concerning the financial affairs of Mahan Air, Jahan Destinations and Ascot General Trading.

- [55] On or about May 16, 2013, Nakhjavany sent an email to Mr. Sari asking for Mr. Sari's assistance in resolving a discrepancy between the amount of funds Mahan Air calculated should be on deposit in Ascot General Trading's bank accounts and the amounts shown in the bank records.
- [56] In July 2013, Mr. Sari sent an email to Nakhjavany advising that Jahan Destination's monthly payment to Mahan Air for June 2013 had been deposited into the account of Ascot General Trading.
- [57] In August 2013, Mr. Sari sent an email to a Jahan employee asking that payment to Mahan Air be made by a cheque to Ascot General Trading.
- [58] In November 2013, Mr. Sari sent an email to Nakhjavany attaching a spreadsheet of transactions in Ascot General Trading's bank account at a United Arab Emirates bank, confirming the details for financial transactions totalling AED 13,680,000. Among those were two large transfers of funds from Ascot to "Grandeur Tempbank - Moscow A/C."
- [59] Grandeur General Trading is a company, which according to the ROC, a man named Ayyappankutty Kidaparambil, an alleged co-conspirator, claims to own and manage.
- [60] In May 2013, Mr. Sari sent an email to Nakhjavany and Kidaparambil advising that Jahan Destination's April 2013 payment to Mahan Air had been made in part by cheque to Grandeur and in part in cash.
- [61] In June 2013, Nakhjavany sent an email to Mr. Sari requesting a statement for Grandeur's US dollar account with a Dubai bank. Other similar requests came from Mahan Air employees in the summer of 2013. On four occasions from June to August 2013, Mr. Sari responded to those requests by sending emails attaching either bank statements or financial records for Grandeur.
- [62] The ROC demonstrates a clear connection between the financial affairs of Grandeur and those of Mahan Air. Para. 119 details instructions contained within a letter on Mahan Air letterhead to transfer funds from Mahan Air ticket sales to a Russian bank account of Grandeur General Trading "in order to be spent for Mahan Air's fuel and ground handling costs and expenses in Moscow."
- [63] Paras. 128-131 detail emails of Kidaparambil attaching wire transfer records of US dollar transfers from Grandeur to the Airports Authority of India, involving multiple American-based financial institutions. Those transfers were said to relate to airport fees. An available inference is that those transactions were for the benefit of Mahan Air.
- [64] There is then a link between Mr. Sari and a financial transaction involving Grandeur that appears to be for the benefit of Mahan Air. That is referenced at paras. 132 and 133 of the ROC, which read:

132. On or about December 16, 2013, SARI sent an email to Mahan Air employee Nassim Moattar with the subject, "Transfer Letter," and attaching, among other things, a copy of a letter from Grandeur, with a signature appearing to be Kidaparambil's, to a bank based in the U.A.E. requesting a transfer of USD \$1,309 to Airsea Container Lines (Thailand) Co., Ltd.
133. Records from BNYM show that, on or about December 17, 2013, BNYM conducted a correspondent account transaction in the United States for the transfer of USD \$1,307 from Grandeur to Airsea Container Lines Thailand.
- [65] There is thus evidence that Mr. Sari, at a minimum, acted as a conduit for some of the allegedly fraudulent transactions. An available inference is that Mr. Sari had knowledge of the scheme and was a knowing participant in it. That is not the only available inference, nor is it necessarily the most compelling inference, but it is a conclusion that a properly instructed trier of fact could reach.
- [66] Paras. 97-102 of the ROC outline Mr. Sari's involvement as a conduit to provide a blank invoice to a bank which had questioned a wire transfer of approximately 258,000 Euros from Ascot General Trading to an aviation parts and support company. Mr. Sari obtained a blank invoice from Mahan Air, to be used to facilitate the wire transfer.
- [67] There is evidence that Mr. Sari knew that there was a potential for banks to refuse transactions involving Mahan Air, and even Ascot General Trading, because of the sanctions. In August 2014, Kidaparambil sent Mr. Sari an email stating that the European Aviation Safety Agency had rejected a payment from Ascot "due to the link between Mahan Air and Ascot." Mr. Sari forwarded the email to an employee of Mahan Air.
- [68] I pause here to note that the ROC is dense, and to my eyes, almost impenetrable in places. It requires careful and multiple readings to even begin to make sense of it. I can envisage considerable difficulty presenting the actual evidence to a trier of fact in a comprehensible fashion. It may well be that the requesting state will fall short, perhaps even considerably short, of proof beyond a reasonable doubt.
- [69] However, that is not the standard that must be addressed at this hearing. There need only be evidence from which a trier of fact could find Mr. Sari guilty. In my view, the ROC contains such a body of evidence.
- [70] I also note that the requesting state need not prove each and every allegation of fraudulent activity to prove its case. Potentially, implicating Mr. Sari in only one transaction, with knowledge of its fraudulent purpose, would be sufficient.
- [71] Paragraphs 108-116 outline two particular transactions, wire transfers by Ascot General Trading and Hanedan General Trading, totalling approximately \$150,000 USD. Those transfers clearly appear to be for the benefit of Mahan Air, and they were conducted by correspondent account transactions in the United States. Para. 116 shows Mr. Sari's direct, albeit minimal, involvement in those transactions. I cannot say what inferences a trier of fact would draw about Mr. Sari's level of involvement in those transactions, and his overall

knowledge of their purpose. However, I can say that one available inference is that Mr. Sari was a knowing participant in a scheme to deceive the banks about the real entity conducting those transactions, in order to evade the sanction regime.

- [72] Perhaps the easiest to digest transaction in the ROC is that detailed in paras. 143 and 144, relating to a company called Megasource Business Ltd. There is other evidence that Mahan Air was using Megasource to pay for its ground handling expenses at an airport near Moscow, Russia, at least by June, 2014.
- [73] Paras. 143 and 144 show Mr. Sari acting as a conduit to provide details of payments made by Megasource, apparently on behalf of Mahan Air, to employees of Mahan. Paras. 143(a) and 144(a) read as follows:
143. On or about August 27, 2013, SARI sent an email to Mahan Air employees Taghikhani and Nakhjavany with the subject, "list of Payment from Russia." Sari stated, in part, "please find attached the list of payment which has been done from Russia ." Attached to the email were, among other things, a document containing wire transfer records for: a. a transfer dated August 26, 2013 of USD \$212,053 from Megasource Business to the Airports Authority of India, described as "overfly charges for the month of January to April 2013, and identifying the Intermediary Institution as "Wells Fargo Bank, N.A., 375 Park Avenue, NY 4080, New York, NY;"
144. Records from Wells Fargo and BNYM show that:
- a. On or about August 26, 2013, Wells Fargo conducted a correspondent account transaction in the United States for the transfer of approximately USD \$212,053 from Megasource Business to the Airports Authority of India.
- [74] That is some evidence of Mr. Sari's involvement in a transaction made on behalf of Mahan Air by Megasource, utilizing a US based financial institution, which conducted a correspondent account transaction.
- [75] Again, it will be for the trier of fact to decide what inferences can be drawn from that evidence. One available inference is that Mr. Sari was a full and knowing participant in the allegedly fraudulent scheme.
- [76] I reiterate that the inference sought need not be the most likely inference. It need only be an inference which is capable of being drawn from the entire body of circumstantial evidence. In that regard, I echo the remarks of Martinson J. in *U.S.A. v. Dhanda*, unreported (February 19, 2009), Vancouver Registry 24028 (S.C.), *aff'd*: 2010 BCCA 200, to this effect:
- [28] If the circumstantial evidence is reasonably capable of supporting a number of inferences, and if one of those inferences supports guilt, the person sought must be committed. The inferences need not be compelling or even easily drawn in order to be reasonable. A reasonable inference does not have to be the most probable inference. The limited function of the extradition judge requires the judge to order committal if the evidence as a whole

"creates a web of circumstances that, if unanswered, could lead a properly instructed jury, acting reasonably" to draw an inference of guilt.

- [77] In summary, there is a sufficient body of evidence disclosed in the ROC from which a reasonable jury, properly instructed, might conclude that Mr. Sari was more than a mid-level employee, or functionary with a subsidiary company of Mahan Air. A jury might conclude that Mr. Sari was a participant in a scheme which used fraudulent means to carry out banking transactions on behalf of Mahan Air, knowing that in so doing he was putting the bank's financial interests at risk. There is thus sufficient evidence for committal for conduct which corresponds to the Canadian offence of fraud.
- [78] Pursuant to s. 29(1)(a) of the Extradition Act, Mr. Sari is committed into custody to await surrender to the requesting state.
- [79] Mr. Sari, pursuant to s. 38(2) of the Extradition Act, I must inform you that you will not be surrendered until after the expiry of 30 days. I must also inform you that you have a right to appeal this committal order and to apply for judicial interim release.
- [80] Pursuant to s. 38(1) of the Extradition Act, I direct that the following documents be transmitted to the Minister of Justice:
- a) a copy of the committal order;
 - b) a transcript of the evidence adduced at this hearing that has not already been transmitted to the Minister;
 - c) copies of all exhibits introduced at this hearing;
 - d) a copy of these reasons, once transcribed; and
 - e) copies of the reasons of earlier rulings made by Justice Winteringham on October 24, 2023 and June 17, 2024.
- [81] I decline to make a report to the Minister as contemplated by s. 38(1)(c) of the Extradition Act.

"Tammen J."

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