

JERSEY / JUDGMENT

AG v Murphy 20-Aug-2019

[2019] JRC 162 (20 August 2019)

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JUDGMENT

THE COMMISSIONER: 1. The defendant, Laurie Murphy applies for bail this morning. He faces two trials. The first is an Assize trial which is fixed for 13th, 14th, December on a charge of grave and criminal assault committed on 20th April, 2019, and the second is for a count of taking and driving away a motor vehicle on 25th April with associated charges of driving whilst disqualified and driving uninsured and driving with excess alcohol. He also faces a Third Indictment of possession of offensive weapon on the occasion of the alleged grave and criminal assault but that seems very linked with the First Indictment. 2. It is worth noting that the defendant had been interviewed in relation to the grave and criminal assault on 21st April, i.e. the day after the alleged assault and only four days before, on the Crown's case, he committed the taking and driving away offence and the other motoring offences. 3. We have to consider this application under the Criminal Procedure (Bail) (Jersey) Law which has recently been brought into force. Article 7 of that Law requires the Court to consider the question of bail whenever a defendant appears before it, even without an application, but on this occasion of course the defendant has applied for bail. Article 7(2) confirms that a defendant has the right to be granted bail except as provided in Schedule 1. Schedule 1 then contains a number of matters but in particular paragraph 1 of Schedule 1 provides as follows: "A defendant's right to be granted bail may be denied if the court is satisfied that there are substantial grounds for believing that the defendant, if granted bail (whether subject to conditions or not) would - (a) fail to surrender to custody; (b) commit an offence whilst on bail; (c) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to the defendant or any other person." And then those matters are elaborated in subsequent paragraphs. 4. We have to say that the Law does not appear to change the position at all. The Court has always presumed a right to bail unless valid grounds for denying bail are shown and the traditional heads of refusing bail are indeed those set out in paragraph 1, which I have just read. Accordingly it seems to us that the approach has not changed substantially but the Law has certainly reinforced the starting point that a defendant has a right to be granted bail. 5. Advocate Harrison argues that if bail is not granted in this case, the defendant will have spent a considerable period in custody by the time of the trial and that that might exceed any sentence that he might receive. However, we have to say that, if these offences are proved, we would certainly anticipate the likelihood of a sentence in excess of the period

which he will have served. 6. Advocate Harrison has also submitted that the defendant has accommodation with his mother and that the likelihood of any reoffending can be addressed by conditions. He referred in particular to the proposed curfew of 8pm to 8am and the condition banning the purchase of alcohol. 7. We have of course considered the points made by Advocate Harrison. However, in our judgment bail must be refused. We are satisfied that there are substantial grounds for believing that if granted bail, even with conditions, the defendant would commit a further offence. We base that on the following: (i) The defendant has an appalling record. He has appeared before the Court on 41 occasions involving some 137 offences. (ii) The most recent appearance was before the Magistrate's Court as recently as 21 st December, 2018, for 6 offences of which 4 had been committed whilst on bail. There are also other examples of offences committed whilst on bail in his record. This shows that being on bail is not something which leads to the defendant not committing further offences. (iii) As Advocate Hollywood has pointed out, the defendant has over his time breached many other types of court orders, for example probation orders, community service orders and binding over orders. This shows that the defendant sadly has little respect for court orders, and fears of sanctions if he breaches orders do not prevent him from committing further offences. 8. Putting all these matters together, as we say, we are satisfied that there are substantial grounds for believing he would commit further offences and bail is therefore refused. Authorities Criminal Procedure (Bail) (Jersey) Law 2017. Page Last Updated: 03 Sep 2019 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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