

Neutral Citation No: [2025] NIKB 30

Ref: ROO12764

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

ICOS No:

Delivered: 15/05/2025

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

KING'S BENCH DIVISION

**IN THE MATTER OF AN APPLICATION BY SEAN FARRELL
FOR COMPASSIONATE BAIL**

**Mr Joseph O'Keeffe KC (instructed by Phoenix Law Solicitors) for the Applicant
Mr David McNeill (instructed by the Public Prosecution Service) for the Crown**

ROONEY J

Introduction

[1] The applicant has been charged with serious offences arising out of the attempted murder of a PSNI officer at Eglinton on 18 June 2015. He faces the following charges:

- (i) Attempted murder, contrary to Article 3(1) of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 and Common Law.
- (ii) Possessing explosives with intent to endanger life or cause serious injury to property, contrary to section 3(1)(b) of the Explosive Substances Act 1883.

[2] Ciaran Maguire, a co-accused, has been charged with similar counts. The trial in respect of the said charges commenced last year without a jury. The prosecution evidence has almost concluded.

[3] Sean Farrell now brings an application for compassionate bail. The basis of the application is to allow him to attend the First Holy Communion ceremony of his seven-year-old son on Saturday 17 May 2025.

[4] In support of his application, Mr O'Keeffe KC, makes the following submissions.

[5] Firstly, the ceremony of First Holy Communion is a significant event in both his son's life and that of his family. It is a religious ceremony and a joyous celebration which will be forever etched in the memory of the applicant's son. For this reason, the applicant wishes to be part of the celebration and the memories. The submission is made that it properly falls within the confines of a meritorious application for compassionate bail.

[6] Secondly, the applicant's co-accused, Ciaran Maguire, was recently granted compassionate bail to attend the bedside of his dying grandmother. On 20 March 2025, Ciaran Maguire was released into the custody of his solicitor for a round-trip from Maghaberry Prison to the Santry suburb of Dublin to visit his grandmother. In advance of his release from prison, as directed by the court, his solicitor gave details of the intended route and specified the make, model and registration number of the vehicle in which they travelled. Ciaran Maguire and his solicitor stopped at a PSNI station and at a Garda station on the route to Dublin and on the return journey to Maghaberry Prison. Significantly, Ciaran Maguire did not breach the specified conditions for his compassionate bail.

[7] Thirdly, the applicant draws the court's attention to a recent compassionate bail application of Emmet Maguire, who was charged with terrorism related offences. The court granted compassionate bail to attend a funeral, and the defendant was escorted to and from the funeral by a solicitor.

[8] In support of Mr Farrell's compassionate bail application, the court has been advised that his solicitor, Mr Daragh Mackin, will undertake to escort Mr Farrell to the ceremony and return him to HMP Maghaberry at a time specified by the court.

[9] Fourthly, a surety in the sum of £5,000 will be lodged in court.

The prosecution submissions

[10] Mr David McNeill BL, on behalf of the prosecution, advances the following objections to the application for compassionate bail.

[11] Firstly, the applicant is charged with offences of the utmost seriousness. Sean McVeigh, a co-accused, was sentenced to 25 years' imprisonment with an extended licence of five years. If Mr Farrell is convicted, the prosecution case will be that his role was equivalent to that of Sean McVeigh. The prosecution submit that the nature and length of the sentence imposed on Sean McVeigh remains a powerful incentive for this applicant to abscond.

[12] Secondly, the applicant is an Irish National with no ties to this jurisdiction. It is submitted that there is nothing to draw him back to this jurisdiction if he decides to abscond.

[13] Thirdly, the applicant was arrested in Dublin on a European Arrest Warrant on 23 March 2017. He contested his extradition whilst on bail. On 14 February 2020, Mr Justice Binchy ruled that the defendant and Ciaran Maguire should be extradited to Northern Ireland. Both defendants were re-admitted to bail pending appeal. On 2 March 2020, the applicant failed to attend the hearing of his application for leave to appeal to the Court of Appeal. The applicant had absconded whilst on bail. An Interpol red notice was issued for his arrest. The applicant was eventually located in Scotland and arrested on 21 May 2020.

[14] The prosecution submit that, by breaching his extradition bail, the applicant forfeited sureties of €35,000, to include a €25,000 surety placed in court by his mother. The forfeited sureties significantly exceed the £5,000 offered in support of this application. The prosecution also submit that the applicant was able to abscond and travel across borders despite the fact that An Garda Síochána retained possession of the applicant's only passport.

[15] Fourthly, the prosecution submit that the PSNI have no means of monitoring and enforcing compassionate bail outside the jurisdiction. It is also stated that neither the PSNI nor AGS have the resources to chaperone the defendant during release on compassionate grounds.

[16] Fifthly, the prosecution acknowledges that the applicant's co-accused, Ciaran Maguire, was recently granted compassionate bail. However, the prosecution maintain that the circumstances were exceptional. It was emphasised that Ciaran Maguire did not have a history of absconding whilst on extradition bail, which is a factor noted by the court in *Ciaran Maguire's application for Bail* [2025] NIKB 11 at paragraph [39].

[17] Sixthly, the applicant has previous convictions which, according to the prosecution, would diminish any confidence the court could have that the applicant would abide by his conditions.

[18] Lastly, if the applicant breached a grant of compassionate bail, the extradition process would commence again, assuming that he is located in the Republic of Ireland. It is emphasised that the applicant vigorously contested previous extradition proceedings.

Consideration

[19] In *In the matter of an application by Kevin Barry Murphy for leave to apply for Judicial Review* [2023] NIKB 58, the Divisional Court considered a prosecution appeal to a grant of compassionate bail made by a magistrates' court.

[20] Relevant to this application, Treacy LJ emphasised the presumption of innocence in respect of remand prisoners. At paragraph [32] the learned judge stated as follows:

“[32] Remand prisoners are presumptively innocent people about whom reasonable suspicions exist but against whom nothing has been proved. They are detained in custody because they are waiting for a trial to happen, and a judge has decided that the State has established relevant and sufficient reasons to justify continued detention.

[33] The proceedings underlying the present application is not the refusal of substantive bail as discussed above. On the contrary it was a different category of bail familiar to the courts and practitioners. It is an application made by the prisoner to respond to a pressing need that has arisen in his life. This category, the ‘compassionate bail application’, generally arises in response to important family events such as the birth of a child or the death of a close relative which happens while the person is in prison. Often, as in the present case, such applications have to be dealt with on an emergency and expedited basis. Substantive bail applications engage article 5. Compassionate [applications] characteristically engage article 8. The context for compassionate applications is that substantive bail will have already been refused by a judge following a full consideration of all the relevant and material factors that bear on the issue.”

[21] The applicant applied for bail on 21 January 2022. This application was refused on the basis of risk of flight and the potential risk of committing further offences.

[22] On 10 August 2022, the applicant made a compassionate bail application to attend his uncle’s funeral in Dublin. HHJ Millar KC, refused the application on the basis of risk of flight.

[23] It is my view that an application by a remand or sentenced prisoner to attend at a First Holy Communion ceremony can fall within the ambit of compassionate grounds and generally engage Article 8 ECHR. Clearly, whether a court will reach a similar conclusion in future applications will depend upon the underlying facts and circumstances in each case.

[24] In my assessment of the merits of this compassionate bail application, the major difficulty facing the applicant is the fact that the applicant absconded whilst on extradition bail in the Republic of Ireland pending his appeal to the Court of Appeal. The applicant was eventually located, not in the Republic of Ireland, but in

Scotland. Although submissions have been made as to the reasons as to why he was in Scotland, the fact remains that he breached his bail conditions and absconded.

[25] Mr O’Keeffe, on behalf of the applicant, urges this court to accept that much has changed since the applicant was arrested and brought to this jurisdiction. The court was informed that he is the longest serving remand prisoner at the present time in this jurisdiction. It is further submitted that it would never be in the contemplation of the applicant to tarnish the memory of his son’s special day by absconding before or after the ceremony.

[26] I have considerable sympathy for this compassionate bail application on the grounds as stated. The applicant’s criminal record would not per se prevent me from granting the application. However, having balanced the merits of the applicant’s submissions against the objections raised by the prosecution, the overwhelming real and immediate concern is the potential for the applicant to abscond whilst on bail. As emphasised above, this concern is substantiated by the fact that whilst previously on extradition bail, the applicant absconded from the jurisdiction of the Republic of Ireland. Furthermore, there are no adequate safeguards or measures which would prevent or obviate the risk of flight. Neither the PSNI and/or the AGS are prepared to escort the applicant. Whilst the court accepts that the applicant’s solicitor is prepared to act as a chaperone, it is obvious that he would not be in a position to prevent the applicant from absconding, if he so wished.

[27] I accept that in the compassionate bail application for Ciaran Maguire, I was prepared to allow his solicitor to act as the chaperone. However, as stated above, a crucial factor was that Ciaran Maguire did not have a history of absconding whilst on bail.

[28] Finally, whilst I accept that remote contact is a poor substitute for attendance in person, I hope that the opportunity has been explored to allow the applicant to view the ceremony remotely and, thereafter, to speak to his son and other members of his family by video link.