

Neutral Citation No: [2021] NIQB 43

Ref: HUM11483

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

Delivered: 21/04/2021

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

IN THE MATTER OF AN APPLICATION BY ADRIAN HOLLAND FOR BAIL

**Joe Brolly (instructed by Madden & Finucane) for the Applicant
Natalie Pinkerton for the PPS**

HUMPHREYS J

Introduction

[1] The applicant, Adrian Holland, is charged with the murder of Robert John Lawlor on 4 April 2020 and with possession of a firearm with intent to endanger life. He denies both the offences.

[2] On 10 March 2021 I heard a lengthy and detailed application for compassionate bail. The applicant was seeking a short period of release in order that he could spend some time with his partner and their new born child. During the course of that application both counsel outlined the circumstances surrounding the alleged offences and the Crown set out its reasons for objecting to bail.

[3] The court recognised that the family circumstances were such as to give rise to the potential entitlement to compassionate bail, but could not be satisfied that the risks of flight and reoffending which would be associated with even a short period of release could properly be managed by the imposition of bail conditions.

[4] The matter was then referred back to me on 9 April 2021, effectively for reconsideration, on the basis I had refused the application on an unsound basis and had misinterpreted the bail conditions to which the applicant was subject prior to the offences arising in the instant case.

Background

[5] On 30 November 2018 the applicant was granted bail by McAlinden J in relation to a firearms charge. This was subject to a number of conditions including a residence condition where the applicant was to reside at a specific property *“and at no other address.”*

[6] These bail conditions were varied from time to time, including on a number of occasions in relation to the particular property at which the applicant was to reside.

[7] Part of the Crown case in relation to the murder charge was that the applicant was booked to stay in the Sligo Park Hotel from 12 to 23 March 2020, a 10 night stay which was paid for by a co-accused. It is alleged that during this stay the applicant met with a well-known criminal figure and engaged in the planning and preparation of the murder of Mr Lawlor. On 16 March the Republic of Ireland introduced lockdown and the remainder of the applicant’s hotel stay was cancelled. It was submitted to me that ANPR evidence revealed the applicant travelling across the border on 12 March and returning on 23 March. His whereabouts between 16 and 23 March are therefore unknown.

[8] The criminal records produced to the court included a conviction for fraud at Ballyshannon District Court on 2 October 2020, the date of the offence having been 30 September 2020. It was therefore not in dispute that the applicant had been outside the jurisdiction, and committed a criminal offence, whilst on High Court bail in Northern Ireland.

[9] The applicant was charged with the instant offences on 10 December 2020 and remanded in custody. There has been no application for the bail, save for the compassionate bail application under consideration.

[10] Having heard the parties’ submissions I made an *ex tempore* ruling, refusing compassionate bail, on 10 March and stated:

“My view is particularly coloured by two matters. It is not the alleged pre-charge bail breaches in this case. It is that the Applicant was granted High Court bail by McAlinden J on 30 November 2018 and those conditions included a residence condition. When he was observed in Sligo (in March 2020) he was therefore in breach of his High Court bail conditions. He was also in Court (Ballyshannon District Court) on another matter in October 2020, where he was convicted of committing another offence, whilst he was on High Court bail in Northern Ireland. I am therefore drawn to the conclusion that there is a risk of flight in this case”

[11] Taking the Crown case at its reasonable height, there was clear evidence that the applicant had failed to comply with the conditions of his High Court bail. The Court therefore determined that there was a real risk that the applicant would not comply with conditions which may be imposed in relation to the compassionate bail, and refused the application.

[12] In referring the matter back to the court, the case was made on behalf of the applicant that he had committed no breach of the 2018 High Court bail but rather that he was “*perfectly entitled*” to be away from his place of residence and outside the jurisdiction on the relevant dates and the court had fallen into error in concluding otherwise.

[13] I heard further submissions on 9 April and ruled that the applicant’s submissions were incorrect and that there had been breaches of the 2018 bail sufficient to maintain the conclusion in relation to the compassionate bail application. I indicated to the parties that I would provide reasons in writing for my decision.

The Residence Condition

[14] The power to grant bail in England & Wales is governed by statute in the form of the Bail Act 1976 and the Criminal Justice Act 2003. By contrast, the grant of bail in the High Court in Northern Ireland remains a part of the inherent jurisdiction of the court. Nonetheless, assistance can be drawn from the jurisprudence in England & Wales in relation to the meaning and effect of bail conditions.

[15] The purpose of bail conditions is to ensure that the person granted bail¹:

- (i) Surrenders to custody;
- (ii) Does not reoffend;
- (iii) Does not interfere with witnesses or obstruct the course of justice; and
- (iv) In certain cases, is afforded necessary protection.

[16] A court may impose any condition which it determines is necessary, reasonable and proportionate to prevent an accused person from absconding, reoffending or interfering with witnesses, although there is a well-recognised set of commonly imposed conditions. One of these relates to ‘residence’. Blackstone (2021) states at paragraph 7-49:

¹ Section 3 of the Bail Act 1976

*"A condition of residence, often expressed as a condition that the accused is to live and sleep at a specified address."*²

It is said to be one a number of conditions *"particularly relevant to reducing the risk of absconding."*

[17] In Valentine's *Criminal Procedure in Northern Ireland*³, the author states:

"Common conditions are...a condition of residence, to live and sleep at a specified address."

[18] Katie Quinn and Charlene Dempsey in *Bail Law & Practice in Northern Ireland*⁴ also identify that the purpose of a residence condition is to reduce the risk of absconding:

"The absence of such an address, it is believed, may increase the flight risk posed by the person. The police may also monitor other bail conditions, such as a prohibition on consuming alcohol or a curfew condition, by calling to the person's bail address in order to locate him."

Consideration

[19] In order to determine whether this applicant was in breach of the residence condition imposed upon him, therefore, I take account of the following:

- (i) The wording of the residence condition including as it does the phrase *"and at no other address"*;
- (ii) Its meaning *"to live and sleep at a specified address"*; and
- (iii) Its purpose, to prevent absconding and monitor compliance with other conditions.

[20] These considerations lead inexorably to the conclusion that it was not open to this applicant to travel to Sligo and book into a hotel in March 2020. This was a flagrant breach of the condition imposed upon him. Equally, it was not open to him to travel outside the jurisdiction in September 2020 and proceed to commit a criminal offence.

² See the Criminal Procedure Rules in England & Wales at rule 14.11

³ 2nd Edition at 5-05

⁴ Paragraphs 4-13 to 4-17

[21] The fact that the Crown did not seek, on either occasion, to have the applicant's bail revoked does not detract from the primary conclusion that he was in breach of the residence condition. That fact also does not impact on the ability of the court to take into account the history of breach when determining a subsequent bail application.

[22] A residence condition such as the one imposed in this case prohibits an overnight stay at any other address. It was suggested to me during the course of this application that this view was not shared by some practitioners in the field. If so, this misconception should be dispelled by this judgment. A residence condition means what it says – it is not permissible for a person on bail subject to such a condition to sleep at a different address, let alone go on holiday. An application to vary bail conditions will be required if the person concerned is not to be in breach of the Court Order.

[23] The application for compassionate bail is therefore dismissed on the basis that the court could not be satisfied that the risk of absconding and committing further offences could be managed by the imposition of conditions.