IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT
[2023] EWHC 2288 (Admin)

No. CO/2733/2023

Royal Courts of Justice

Tuesday, 8 August 2023

Before:

MRS JUSTICE FARBEY

B E T W E E N :

VERMES — Applicant

- and -

HUNGARIAN JUDICIAL AUTHORITY — Respondent

MR G DOLAN appeared on behalf of the Applicant.

MR S ALLEN appeared on behalf of the Respondent.

J U D G M E N T

MRS JUSTICE FARBEY:

Introduction

1 The applicant is a Hungarian national, born on 22 August 1999 so that he is now aged 25. He has applied to the High Court for bail pending his extradition hearing in Westminster Magistrates' Court, which has been listed to take place on 28 September 2023.

2 The applicant's extradition is sought in relation to three arrest warrants. Arrest warrant 1 was issued by the Regional Court of Veszprem on 16 July 2019. It was certified by the National Crime Agency ("NCA") on 20 January 2023. It is said to relate to 21 accusations of theft-related offences. Only 16 are particularised. The offences are said to have occurred in 2016-2017 when the applicant was a juvenile.

3 Arrest warrant 2 was issued by the District Court of Zirc on 2 August 2019 and certified by the NCA on 20 January 2023. It relates to eight accusations of theft-related offences which are said to have been committed in 2017 when the applicant was a juvenile. Arrest warrant 3 was issued by the District Court of Szombathely on 17 March 2020, and certified by the NCA on 27 January 2023. It relates to an offence of theft, which is said to have occurred in 2016 when the applicant was a juvenile.

4 The applicant was arrested on 30 January 2023. He did not consent to his extradition. Proceedings were opened and adjourned. He has been in custody since that date. On 14 March 2023 he made a bail application. He was unable to offer a security on that occasion. Bail was refused by District Judge Greenfield. On 16 May 2023 he applied for bail with a security of £1,000. Bail was refused by District Judge Heptonstall.

5 The application for bail before me says that he would be willing to comply with the following conditions of bail:

(1) That he pay a pre-release security of £2,000.

(2) That he live and sleep each night at an address in Sheffield which I have been told today is the address of his partner's father.

(3) That he observe an electronically monitored curfew between the hours of 10 p.m. and 4 a.m.

(4) That he report weekly to Sheffield Snig Hill Police Station.

(5) That he not apply for any international travel documents.

(6) That he not go to any international travel hub.

(7) That his mobile telephone be switched on and charged at all times.

(8) That he notify the Westminster Magistrates' Court of his mobile telephone number no later than two working days after his release from custody.

The parties' submissions

6 On behalf of the applicant, Mr Gary Dolan submits in writing and orally that the proposed bail conditions are stringent and allay any concerns that the applicant will not surrender when required. The alleged offending is said to have occurred when the applicant was a juvenile but he now has a son in the United Kingdom, to whose financial maintenance he contributes and in whose life he is involved. He has a partner in the United Kingdom, and has been in a relationship with her since January 2022. It is said that he has a strong support network.

7 The proposed bail address is that of his employer. It is submitted that as his employer is also the applicant's partner's father, his employer would have an incentive to ensure the applicant's compliance with bail conditions. Mr Dolan has emphasised in particular that the applicant has experienced ill health in custody, suffering from a wound, just above his anus, which is prone to bleeding and producing pus. He suffers considerable embarrassment in relation to this wound within HMP Wandsworth. There is an outstanding section 21B request, which is said to be difficult to manage when the applicant is in custody, and there have also been difficulties in obtaining appropriate medical evidence which will play its part in the extradition hearing.

8 In addition, and at the forefront of Mr Dolan's submissions today, I am asked to consider the question of proportionality. In this regard, Mr Dolan emphasises the applicant's medical condition; his age at the time of the offending which, as I have said, was as a juvenile; the low level nature of the offences; his ties to the UK; and the length of time that he has been in custody now and will have served by the time of the extradition hearing, which will be the equivalent of a one year prison sentence.

9 On behalf of the respondent, Mr Stuart Allen opposes the application contending that there are substantial grounds for believing that the applicant would, if released on bail, fail to surrender to custody. Although the applicant's history is of low level offending, it is repeated offending and there is the potential for at least a one year's custodial sentence.

Discussion

10 As this is an accusation case, the presumption of bail applies. Considering the matter afresh, as I am bound to do, I have reached the conclusion that, despite the conditions of bail offered, there are substantial grounds to fear that if released the applicant would fail to surrender. Although the applicant has no criminal convictions in the UK he has numerous previous convictions in Hungary for offences of dishonesty and one conviction for escape from lawful custody, which is said to have been committed on 8 March 2019 in order to escape the execution of coercive measures. When bailed in relation to the offences within arrest warrant 1 he absconded, which was the cause of the need to issue the arrest warrant. In relation to arrest warrant 2 he was not subject to bail conditions, but was subject to a requirement to notify the Hungarian Authorities of any change of address. Information to which my attention has been drawn, from the Hungarian Authorities, states that he did not report to the District Court of Zirc the address of his place of residence. He also failed to notify the Authorities of any change of address in relation to arrest warrant 3.

11 Given this history, I am not persuaded that he can be trusted to comply with bail conditions now, nor do I consider that his motivation to provide financially or emotionally for his son is likely to prevent him from failing to surrender. There is no evidence of his employment, and his family circumstances and ties to the UK are not so compelling as to make his ongoing remand disproportionate, nor are there other factors pointing towards that conclusion.

12 Medical evidence has been produced which casts some light on the extent of the applicant's injury, as well as its diagnosis and prognosis. There is, however, nothing to suggest that his medical condition cannot be adequately managed within the prison estate, or that steps cannot be taken to reduce the embarrassment which the applicant says he suffers within the rigors of the category B estate. Although the offences in the arrest warrants relate to juvenile offending he is now some years over the age of 18 and so has no vulnerability arising from his age. Nor do I take the view that the length of custody, either now or at the date of the hearing, requires me to grant bail today.

13 In addition, the applicant has family (as I understand it, his mother, sister and brother) in Germany. He therefore has the ability to draw on close family ties should he decide to abscond. These various factors mean that despite the conditions offered there remain, in my judgment, substantial grounds to believe that if granted bail the applicant will fail to surrender to custody and that his continued custody is proportionate.

Conclusion

14 For these reasons this application is dismissed. I do, however, record the excellent submissions of both Mr Dolan and of Mr Allen.

CERTIFICATE

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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This transcript has been approved by the Judge.