



Neutral Citation Number: [2020] EWHC 3563 (Admin)

Case No: CO/4640/2020

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 21st December 2020

Before :

MR JUSTICE FORDHAM

Between :

ROSS DAVENPORT GODDARD

- and -

**MUNICIPAL COURT IN PULA-POLA
(CROATIA)**

Applicant

Respondent

Louisa Collins (instructed by Dalton Holmes Gray Solicitors) for the **Applicant**
Florence Iveson (instructed by the Crown Prosecution Service) for the **Respondent**

Hearing date: 21st December 2020

Judgment as delivered in open court at the hearing

Approved Judgment

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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THE HON. MR JUSTICE FORDHAM

Note: This judgment was produced for the parties, approved by the Judge, after using voice-recognition software during an ex tempore judgment in a Coronavirus remote hearing.

MR JUSTICE FORDHAM :

1. This is an application for bail in an extradition case. The Applicant is 25 and is wanted for extradition to Croatia. That is in conjunction with an accusation European Arrest Warrant issued on 1 September 2020. This Court's jurisdiction in relation to bail, where bail has been refused in the magistrates' court, is found in section 22(1A) of the Criminal Justice Act 1967. The function of this Court is not to 'review' a primary bail adjudication by a magistrate, but to consider "afresh" the merits of the application for bail on the material before this Court: see the case of Tighe [2013] EWHC 3313 (Admin) at paragraph 5.
2. I should say this (in this approved written version of my ruling) about the mode of hearing. This was a remote hearing by BT conference call. Counsel were satisfied, as was I, that there was no prejudice to the interests of their clients from this mode of hearing. The open justice principle was secured, in circumstances where London is now in Tier 4. The case and its start time were published in the cause list, together with an email address usable by any member of the press or public who wished to observe the hearing. The hearing was recorded. This written version of my ex tempore ruling is released in the public domain. I am satisfied that the mode of hearing was necessary, appropriate and proportionate.
3. The essence of the case for bail put forward in writing and orally by Ms Collins for the Applicant, as I see it, comes to this. This Court can be satisfied, on all the materials, that there are no substantial grounds for believing that, if released on bail today on the conditions proposed, the Applicant would subsequently fail to surrender in connection with these extradition proceedings. Since this is an accusation EAW case there is a presumption in favour of the grant of bail. Although it is a 'stumbling block' and a 'problem' (as Ms Collins put it) in terms of bail that the Applicant did not respond to Croatian summonses requiring him to attend hearings in Croatia in 2019, that does need to be put alongside all the other circumstances of this case. He had been permitted to come to the United Kingdom, having been arrested on 5 September 2016 and kept in custody for some 10 days and then released on bail with conditions. He returned to the United Kingdom and completed his higher education here. He has no previous convictions and is of good character. The positive view of him by others is exemplified in a character reference letter that is before the Court. He voluntarily attended the police station in Leeds on 20 November 2020 following a notification through his father, and therefore cooperated and did not attempt to abscond. He is a United Kingdom citizen with strong ties to this country and strong family links, and no connection with any other country. "Stringent" bail conditions are put forward. They include: a residence condition to live with his father with an electronically monitored curfew; regular reporting (if necessary on a daily basis) to the local police station; the continued surrender of his passport; the usual prohibitions on international travel documents and travel entering international travel hubs; a constantly contactable mobile phone; and perhaps most importantly of a substantial pre-release security of £25,000. On the evidence that £25,000 is a very significant sum to the family, put forward to guarantee the Applicant's attendance. To lose that very significant sum would be a very significant impact on the Applicant's loved ones. That money represents the Applicant's father's inheritance, following the death of the father's own mother. The Applicant's father is a retired teacher and his mother a primary school teacher.

4. Notwithstanding all of those submissions, and all of those matters put forward on the Applicant's behalf, I am not prepared to grant bail in this case. In my assessment, looking at the matter afresh on all the material before the Court and in the light of everything that has been said and I have read, there are in my assessment substantial grounds for believing that – if released on bail and notwithstanding the proposed bail conditions – the Applicant would fail to surrender.
5. The starting point is that the index alleged offence with which the European Arrest Warrant is concerned is, on the face of it, a serious offence. There is, on the face of it, a very real prospect of a substantial custodial sentence. The minimum under Croatian law is 12 months custody with a maximum of 12 years and, again on the face of it, the custodial sentence may well be more than the minimum 12 months. The Applicant is said to have been caught 'red-handed' in possession (on 3 September 2016) of a large volume of drugs in an apparently sale-ready form. The offence alleged against him is possession of narcotics with intent to supply. He is alleged to have had in his possession the following:
 - 17 tablets of 2C-B (4.98g)
 - 25 tablets of 2C-B (6.64g)
 - 41 tablets MDMA (18.40g)
 - 14 bags of amphetamine (6.63g)
 - 10 bags of cocaine (3.24g)
 - 8 bags MDMA (5.39g)
 - 3 bags marijuana (1.72g)
 - 17 LSD papers
 - 44 tablets MDMA (13.8g).

That alleged offence, and the fact that he is wanted to face trial in relation to it, stands, in my assessment, as a substantial incentive to avoid those consequences if the Applicant is able to do so. One possibility is of course that he would resist his extradition through the legal process, acting cooperatively and compliantly and with his family's support. But another possibility, and in my assessment one involving a substantial risk of it ensuing, is that he would fail to surrender.

6. Next, I accept Ms Iverson's analysis that the Applicant must have a greatly reduced prospect of bail in Croatia and must be well aware of that. That is because of his previous conduct in breaching previous bail conditions imposed when he was released on 16 September 2016.
7. That brings me to the next feature, realistically recognised by Ms Collins as problematic so far as bail is concerned. The Applicant, facing responsibility for these very matters, was previously released on bail, with bail conditions, by a Court in Croatia. That Court was persuaded that bail could be granted in his case in the light of all of the circumstances including the family support. Appropriate bail conditions were identified and a sum just under £7,000 as pre-release security was put forward by the Applicant's parents, no doubt involving a significant impact on them in the light of a sum significant to them were it to be forfeited. That sum was put forward to guarantee compliance with the bail conditions. On two occasions in 2019 the Applicant was summonsed by the Croatian authorities to attend hearings in Croatia (10 May 2019 and 12 December 2019). He failed to surrender and thereby breached his bail conditions. The consequence was that the security raised by the family, of just under £7,000, was

forfeited. The Applicant therefore acted, in relation to these very matters (the alleged index offence in these extradition proceedings), in a way which sought to avoid responsibility and breached conditions that had been put forward, including a substantial financial security. That conduct – including the fact that it is relatively recent, that it has a direct nexus to these very matters, and the resonance which points put forward before me have when put alongside the points that would have been put forward to the Croatian bail judge – gives rise in my assessment to a serious concern as to how the Applicant would respond if released on bail conditions in relation to these same matters but by me as a judge in this jurisdiction.

8. The Applicant is young (25) and, on the face of it, has or would have a mobility associated with his youth that would present him with an option of travelling and relocating and seeking to start again somewhere else, rather than cooperating with the extradition process and complying.
9. I have, of course, carefully considered all the things that have been said about him and written about him. That includes the very positive things said in the reference letter. Nevertheless, there are three events in this case which, on the face of it, loom large, and which temper what has been said on the Applicant's behalf in support of this application for the release on bail on conditions. I emphasise that I am not making any finding of fact. I am assessing risk, on the basis of the material before me. Findings will be matters for our other Courts, as and when relevant at other hearings. But the three relevant events which serve to cause the concern, when put alongside what I have been told and have read about the Applicant, are the events regarding: 3 September 2016; 10 May 2019 and 12 December 2019.
10. I have already referred to the second and third of those dates, because those are the dates at which the Applicant was called upon to comply and surrender in Croatia, in accordance with his bail conditions. He accepts that he failed to do so. Although there is no proof of evidence, I do not hold that against him. I am told that what is said within the application for bail document is based on his instructions, and I will treat it as though it were a proof of evidence: I do not doubt that there are particular difficulties in current circumstances and getting proofs of evidence from those who are in custody. What I am told about those two occasions is "he regrets having failed to respond". Regrettable though his response is, and was, the fact is that – as recently as May 2019 and December 2019 – that was his conduct; those were the choices that he made; and he made them with his 'eyes open', including knowing the consequences that it would have for the substantial security of nearly £7,000, put forward by his parents, being forfeited.
11. So far as 3 September 2016 is concerned, that conduct of course is only an allegation. I am told that the Applicant is engaging and would intend to engage with the Croatian authorities in relation to that. I repeat I am not making any finding of fact. But the letter of reference put forward on behalf of the Applicant states that he has expressed sincere regret "at the short-sightedness" and "disappointment in his actions", recognising "the stupidity of his actions". All of that is said in relation to what happened in 2016 in Croatia, when the Applicant is said to have been on a camping holiday with University friends. That reference letter gives that description of what happened in September 2016, so as to put that into context, alongside the positive things said about the Applicant. I do, on the face of it, have to put that description of "short-sightedness" and "disappointment" and "stupidity" alongside the nature of the narcotics which are said

to have been found in the Applicant's possession (which I listed above), which the underlying accusation case against him is all about.

12. These three events, when I consider them and the material before me in relation to them, are such as to cause me concerns so serious as to constitute, viewing the case overall, substantial grounds for believing that this is an Applicant – notwithstanding all that is said about him – who would fail to surrender were I to release him on bail today, notwithstanding the conditions put forward. Those bail conditions, including what I accept is a very significant sum which the family could ill afford to lose, do not allay the concerns that I have about the risk of absconding in this case. Nor do the links to the United Kingdom or the supportive family: the same supportive family who was relied on in relation to the previous bail conditions and the previous bail security.
13. It is for those reasons that I have come to the conclusion that there are, in this case, substantial grounds for believing that the Applicant would, if released on bail and notwithstanding the conditions, fail to surrender. I therefore refuse the application for bail.

21.12.20