

ROYAL COURT
(Samedi Division)

127.

24th June, 1994

Before: The Bailiff, and
Jurats Orchard and Vibert

The Attorney General

- v -

Kenneth Charles Skinner

Application for review of Magistrate's decision to refuse Bail.

The accused is charged with 3 counts of grave and criminal assault; 1 count of acting in a manner likely to cause a breach of the peace; 1 count of violently resisting police officers in the execution of their duty; and 1 count of causing malicious damage.

Advocate P.C. Sinel for the Applicant.
C.E. Whelan, Esq., Crown Advocate.

JUDGMENT

THE BAILIFF: Before this Court can interfere with a refusal by the Magistrate to grant bail, we have to be satisfied that either the Magistrate positively misdirected himself, or the proceedings were irregular, or that he gave a decision which no reasonable
5 Magistrate could properly have given.

Looking at the reasons advanced by Judge Sowden, he very clearly set out why he was refusing bail. So far as the 2nd May is concerned, he had looked at the record and he considered the
10 degree of seriousness of the offences. On 31st May, he went a bit further. He indicated that he must have examined the evidence by saying that: "...there is a prima facie case, in respect of each and every one of the six charges, some of which are of a high degree of severity". Of course the question as to whether the

accused actually committed those offences or not has not yet been decided, but he must not be refused bail on the basis that he is going to plead guilty; that is not a ground for doing so. But there is no indication in the reasoning of the Magistrate that that was at the back of his mind. He went through the allegations and if they were correct and if the accused were guilty of them, they were very serious. One of the matters which a Court can take into account is, of course, the penalty that might be imposed in respect of serious offences of that nature and indeed this Court has so held in the case of Makarios (1978) JJ 215.

Judge Trott was somewhat shorter in his reasons and we do not know exactly what was put before him. There was an allegation by the Centenier that there could be interference with witnesses, but that was answered by Mr. Sinel and it is important to note that this is not a case of someone without a record and unrepresented being refused bail; this is a case of an accused with - the Magistrate mentions it - an offence, not all that long ago, of a serious nature which is relevant to the question of bail.

Secondly on each occasion the applicant was represented by counsel and Mr. Sinel this morning quite fairly has said that he made the points, though perhaps not as fully as he made them before us this morning. One must assume therefore that both Mr. Sowden and Mr. Trott were in full possession of the matters urged before us today with the exception of the question of the applicant's family and his reunion with them. We would have to ask ourselves whether, had the Magistrates been in possession of that fact, it would have been a matter which would have outweighed all the other matters, which, in our opinion, they rightly took into account. We do not think that it would have done so and we cannot interfere in the exercise of their discretion which we find was properly exercised and is not one which we would feel justified in overturning. The application is refused.

Authorities

A.G. -v- Makarios (1978) JJ 215.