

ROYAL COURT
(Samedi Division)

21st June, 1996.

118.

Before: The Deputy Bailiff and Jurats Le Ruez
and de Veuille.

The Attorney General

-v-

Stewart Gordon Bain

Application for review of Magistrate's refusal of bail.

- On 4th December, 1995, the applicant pleaded not guilty to:
1 count of possession on 1st December, 1995, of a controlled drug (cannabis resin) with intent to supply it to another, contrary to Article 6(2) of the Misuse of Drugs (Jersey) Law, 1978.
The applicant was remanded in custody without bail option.
- On 13th December, 1995, a bail application was refused.
- On 30th January, 1996, the applicant pleaded not guilty to 2 further counts:
1 count of being concerned, between 8th November, and 1st December, 1995, with the importation of a controlled drug (cannabis resin) contrary to Article 4 of the Misuse of Drugs (Jersey) Law, 1978; and
1 count of possession on 1st December, 1995, of a controlled drug (cannabis resin) contrary to Article 6(1) of the said law.
- The applicant was remanded in custody without bail option, and again on 27th February, 14th March, 18th April, and 10th May, when reports and transcripts were signed and the applicant was remanded for trial before the Royal Court.
- On 18th June, 1996, a bail application was refused.
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JUDGMENT

THE DEPUTY BAILIFF: This is an appeal against a decision of Assistant Magistrate Trott to refuse bail.

5 We have to say, and Mr. Costa conceded, most of the arguments put to us were rehearsed before Mr. Trott.

10 In two cases referred to us that of Harris (3rd June, 1994) Jersey Unreported and Hakes (18th November, 1994) Jersey Unreported, the Court referred to Article 22 of the "*Loi (1864) reglant la procédure criminelle*" which provides that an accused remanded for trial by the Police Court should be presented before this Court on "*un jour rapproché*" that is to say, a proximate date.

15 Transcripts were signed and the case sent to us on the 10th May, 1996. We have been informed that the applicant is likely to be indicted in three weeks. The delay comes about because the applicant was arrested on the 1st December, 1995. Although we had some mis-givings about that long period of time, we can understand the delay when we have regard to the fact that there are some 52 witnesses some from the United Kingdom, including forensic experts who will give evidence at the trial and that Advocate Le Sueur, who was then representing the applicant, argued against the fast track approach offered to him at the Police Court.

20 Mr. Bain has perhaps not helped matters, though he has acted entirely within his legal rights, by making no comment answers to some sixty questions put to him. There is nothing wrong with that and we do not comment upon it adversely, other than to say that we wonder if that does not militate somewhat against the applicant's protestations that he is entirely innocent of the charges brought against him.

35 We have to look at the offence, however, which involves charges of being concerned with the importation of cannabis and of possession with intent to supply cannabis which, if it had got out onto the streets, might well have had a street value of £92,000 - this is a very considerable charge being brought against the applicant. The offence, if proven, and we have some way to go before that, will carry a long term of imprisonment.

45 The applicant has no connection with Jersey although we have to say that a £5,000 surety has been offered by his father and his passport has been surrendered. He has a record of dishonesty and we are somewhat disturbed by the fact that he has a record of breaching bail conditions some of which only carried an

admonishment in Scotland, but the fifth and last of which in 1994 led to a sentence of three months' imprisonment consecutive to charges of fraud.

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Advocate Costa has said everything that could be said on his client's behalf, but we think that we really should look only at the gravity of the offence as laid down in the case of Makarios and on that basis we regard the offence as being too serious to allow bail. Accordingly the application is refused.



Authorities

A.G. -v- Harris (3rd June, 1994) Jersey Unreported.

A.G. -v- Hakes (18th November, 1994) Jersey Unreported.

A.G. -v- Comer (23rd September, 1994) Jersey Unreported.

A.G. -v- Coutanche (29th April, 1994) Jersey Unreported.

A.G. -v- de la Haye (11th November, 1994) Jersey Unreported.

Loi (1864) réglant la procédure criminelle.