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	Delivered: **20/02/2025**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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KING'S BENCH DIVISION

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IN THE MATTER OF AN APPLICATION BY CIARAN MAGUIRE FOR BAIL

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Mr Brentnall (instructed by Brentnall Solicitors) for the Applicant
Mr David McNeill (instructed by the Public Prosecution Service) for the Crown

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ROONEY J

Introduction

[1] The applicant is charged with serious offences arising out of the attempted murder of a PSNI officer at Eglinton on 18 June 2015. He faces the following charges:

(i) Attempted murder, contrary to Article 3(1) of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 and Common Law.

(ii) Possessing explosives with intent to endanger life or cause serious injury to property, contrary to Section 3(1)(b) of the Explosive Substances Act 1883.

[2] The co-accused, namely Sean Farrell and Sean McVeigh, were charged with similar counts.

[3] The prosecution alleged that following their involvement in the planting of an explosive device under the police officer's vehicle, the applicant and the co-accused escaped in two vehicles from this jurisdiction into the Republic of Ireland. Having abandoned one vehicle in Lifford, Co Donegal, the applicant and the co-accused's vehicle was subsequently stopped by members of An Garda Síochána **(**"AGS") at Killygordon, Co Donegal. The applicant and the co-accused were then arrested, detained and subsequently released without charge on 19 June 2015.

[4] In March 2017, the applicant was arrested and extradition proceedings commenced. He was released on bail pending the said extradition proceedings. In August 2017, the applicant was arrested in the Republic of Ireland for the offence of membership of the IRA. On 30 May 2018, he was convicted of the said offence and sentenced to imprisonment of four years and 11 months.

[5] On 20 August 2018, the trial at Belfast Crown Court commenced in relation to the charges against Sean McVeigh. On 14 September 2018, the trial concluded. On 8 February 2019, the Belfast Crown Court determined Sean McVeigh to be guilty of all charges.

[6] In April 2021, Ciaran Maguire was extradited to Northern Ireland. Sean Farrell was also extradited. It is noted that Sean Farrell absconded whilst on extradition bail in the Republic of Ireland and was only apprehended in May 2020 in Glasgow.

Bail history and the trial process

[7] On 25 June 2021, the applicant was refused bail by the District Judge on the grounds that there was a risk of reoffending and a risk of flight. On 9 July 2021, Keegan J refused bail due to the risk of flight.

[8] The commencement of the defendant's trial was delayed on several occasions for reasons which I have summarised below.

[9] On 14 September 2021 the applicant was returned for trial. The trial was listed to commence in January 2022. On 16 December 2021, the trial date was vacated by agreement of the parties, in part due to the fact that the investigating police officer had contracted Covid and was having to self-isolate for a period, and also because the applicant's legal team said they did not have sufficient time to consult with the applicant and were not ready for trial.

[10] The trial was then due to commence in May 2022, but was again adjourned when the legal teams for both the applicant and Sean Farrell required more time for their experts to produce reports. The trial was then fixed for hearing in January 2023 to accommodate the applicant's senior counsel.

[11] On 14 December 2022, the trial date was vacated when the applicant's then senior counsel withdrew and was replaced by another senior counsel who directed further defence experts. The application to vacate the trial date in January 2023 was opposed by the prosecution but supported by the defence team for Sean Farrell on the basis that they were still awaiting a report from an explosive's expert.

[12] On 16 March 2023, the trial was listed for September 2023. On 4 May 2023, the September trial date was vacated and refixed for November 2023 to accommodate defence senior counsel's availability.

[13] On 26 October 2023, a further application was made to adjourn the trial due to commence in November 2023 so as to allow the defence to carry out further investigations in relation to explosive traces at the premises of another person. The trial was then fixed to commence in February 2024.

[14] On 8 December 2023, the applicant brought a bail application primarily grounded on the delay in the trial process. Having carefully considered the reasons for the delay as detailed above, I ruled that the delay was not so substantial and refused bail primarily on the risk of flight.

[15] The trial commenced in February 2024. The prosecution called evidence from members of AGS who were involved in the arrest, search and detention of the applicant and Sean Farrell. Evidence was also called regarding the forensic examination of clothing worn by the applicant and Sean Farrell and the forensic examination of the vehicle in which they were stopped. Further evidence was called in relation to gloves which were allegedly discarded from the said vehicle and the forensic examination of the vehicle which the prosecution allege was abandoned in Lifford.

[16] Legal submissions were advanced by counsel on behalf of both this applicant and Sean Farrell in relation to the admissibility of the prosecution evidence. Following both written and oral submissions, this court determined that it would benefit from the legal expertise of a senior counsel in the Republic of Ireland in relation to the statutory provisions and the relevant jurisprudence regarding the powers exercised by the AGS. Accordingly, Mr McGillicuddy SC, prepared two reports for the benefit of the court. Following his oral evidence, Mr McGillicuddy was cross-examined at length by counsel on behalf of this applicant and Sean Farrell.

[17] On 3 July 2024, the applicant made a further application for bail on the basis of delay. Bail was refused due to the fact that the trial process was considerably advanced and that the prosecution case had almost closed.

[18] Further detailed and wide ranging written and oral submissions were made by counsel for both the defence and prosecution. In December 2024, this court produced a detailed and lengthy ruling in relation to the admissibility of the AGS evidence. The court also ruled on the discrete issue of International Letters of Request (ILORs) which have been raised in the defence legal submissions.

[19] The applicant now advances a further application for bail. The basis of the application relates to delay, namely that, despite expectations, the trial has not concluded and that an end date is not in sight. Furthermore, arising out of an issue raised in my ruling in respect of ILORs, it will be necessary for the disclosure judge to give further consideration to this issue thereby giving rise to further delay. Thirdly, although the trial was scheduled to recommence in January 2025, this has

been delayed due to the barristers' strike in relation to legal aid which is expected to run to the end of February 2025.

[20] It is submitted on behalf of the applicant that it remains unclear when this trial will conclude. The applicant was remanded in custody in this jurisdiction in April 2021. He is approaching four years incarceration. The Court was referred to the decision of Colton J in *Jordan's Application for Bail* [2023] NIKB 95, in which the learned judge stated at para [2] as follows:

> "[2] The applicant was arrested in August 2020. She has now been in custody for over three years, something which may well continue for a significant period of time. That this is so, must be of grave concern to the courts. By this application she seeks to be released from custody on bail. The length of time that she has served in custody, which is continuing, demands that the necessity of her continued detention must be subject to intense scrutiny by this court."

[21] It was submitted on behalf of the applicant that this case is similar in that, due to the applicant's detention of over 3.5 years, the court should have grave concerns as to the length of time spent in custody and, accordingly, grant him bail, subject to appropriate conditions to manage against the risk of absconding and the risk of committing further offences on bail.

[22] The prosecution submits that there is a real risk that the applicant will commit further offences while on bail and will abscond. The applicant's response is that, even if the court was so concerned in relation to these risks, conditions could be imposed regarding prohibition of contact with various persons, curfew restrictions, tagging, reporting to police and limited access to electronic devices.

[23] In relation to a risk of flight, the applicant states that he does not have a passport. His family are also prepared to lodge a £5,000 cash surety. It is claimed that he has strong links to Ireland and would be keen to re-engage in employment, if possible. It is further claimed that he has abided by bail conditions in the past and has never breached any court orders. In essence, there is a strong presumption in favour of bail.

[24] The prosecution's opposition to bail will be considered in further detail below.

Bail – the principles

[25] The relevant principles in respect of bail have been recently considered by Humphreys J in *Murphy's Application for Bail* [2023] NIKB 99 and Colton J in *Jordan's Application for Bail* [2023] NIKB 95.

[26] Every suspect in a criminal investigation is entitled to both the presumption of innocence and a presumption in favour of bail. This well-established common law principle is confirmed in Article 5 of the European Convention on Human Rights which forms part of domestic law by reason of the Human Rights Act 1998.

[27] Article 5(1) provides:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> …
>
> (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; …"

Article 5(3) provides:

> "3. Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial."

[27] As stated by Colton J in *Re Jordan's Application* at paras [31]-[33]:

> "[31] Thus, it will be seen that there are two separate phases of detention which are subject to judicial control. The first relates to the requirement to produce a person arrested "promptly" before a judge.
>
> [32] The second, which is at issue here, is that judicial control is required after such production, that is the period pending eventual trial.

> [33] A third important aspect to article 5(3) is that it requires that a person detained on remand be tried within a reasonable time."

[28] In his judgment, Colton J also referred to the decision of the Grand Chamber in *Idalov v Russia No.5826/03* [2012] which stated as follows:

> "140. The existence and persistence of a reasonable suspicion that the person arrested has committed an offence is a condition sine qua non for the lawfulness of the continued detention. However, after a certain lapse of time it no longer suffices. In such cases, the court must establish whether the other grounds given by the judicial authorities continued to justify the deprivation of liberty. Where such grounds are 'relevant' and 'sufficient', the Court must also ascertain whether the competent national authorities displayed 'special diligence' in the conduct of the proceedings (see Labita, cited above, §§ 152 and 153). Justification for any period of detention, no matter how short, must be convincingly demonstrated by the authorities (see Shishkov v Bulgaria, no. 38822/97, § 66, ECHR 2003-I). When deciding whether a person should be released or detained, the authorities are obliged to consider alternative measures of ensuring his appearance at trial."

[29] On the facts of this case, the court is satisfied of "the existence and persistence of a reasonable suspicion" that the applicant has committed the offences in question so as to justify his detention in custody. However, for detention to be justified under Article 5(3) ECHR, the court must be satisfied that the accused's detention is not prolonged beyond a reasonable time and that the grounds for deprivation of liberty remain "relevant" and "sufficient."

[30] The authorities quoted above refer to cases where the person is detained on remand awaiting trial. This case is different, in that the trial has already commenced. Nevertheless, in my judgment, the principles remain, namely that the trial process must be conducted with "special diligence" so as not to unreasonably prolong the applicant's detention. In cases where the trial process is long and protracted, the obligation remains on the court to consider alternative measures to custody and to ensure the accused's continued appearance at trial.

The prosecution's submissions

[31] The prosecution makes the following submissions. Firstly, the delay prior to the commencement of the trial was due to unforeseen circumstances, including the impact of Covid, the unavailability of defence senior counsel, obtaining further

defence reports and the matters discussed at paras [9]-[14] above. Secondly, the prosecution submits that after the commencement of the trial in February 2024, the process has been substantially delayed as a result of defence legal applications during the course of the evidence, particularly in relation to the admissibility of evidence gathered in the Republic of Ireland. The prosecution maintained that if the said legal applications had been indicated at an earlier stage, the prosecution would have been prepared for them in advance, which would have involved the earlier instruction of an expert in Irish law.

[32] I pause for the moment to consider the purported delay since the trial commenced. In my view, there can be no criticism as to the expeditious manner in which the prosecution called evidence from members of AGS. It was also clear to this court that both the prosecution and defence collaborated to ensure that, where necessary, evidence was agreed. Regarding evidence that was not agreed, the witnesses gave their evidence timeously and were cross-examined in a professional and effective manner.

[33] In my judgment, the decision of defence counsel to challenge the admissibility of the evidence of the AGS officers is also not open to criticism. There may be some merit in the prosecution's submission that the said challenge should have been brought to the prosecution's attention earlier. Whatever may be said in relation to the timing of the application, it was clear to this court that the defence were justified in advancing the challenge to admissibility of the evidence. The written and oral submissions were extremely detailed and raised significant issues in relation to the interpretation of the relevant statutory provisions and the jurisprudence in the Republic of Ireland. The instruction of Mr McGillicuddy SC, the legal expert, was not only necessary but extremely helpful to this court.

[34] The complexity of the legal submissions necessitated a thorough analysis by this court as detailed in its ruling in December 2024. Correctly in my view, Mr Brentnall, solicitor, who made eloquent submissions in support of the applicant's bail application (in the absence of counsel on strike), did not seek to argue to the contrary.

[35] Thirdly, as submitted by the prosecution, the trial was due to proceed in January 2025. The delay due to the barristers' strike cannot be the fault of the prosecution or the court. Clearly, this submission is correct. The prosecution further submits that when the trial recommences, the prosecution evidence will conclude very quickly and that the length of the trial will then be determined by the evidence of the defence witnesses.

[36] The prosecution's primary objections to bail rest on a risk of flight and a risk of further offending. I will consider each seriatim.

The risk of flight

[37] The prosecution submit that the applicant faces very serious charges, to include attempted murder and possession of explosives with intent to endanger life. Sean McVeigh, a co-accused, was found guilty of the same charges at Belfast Crown Court and sentenced to 25 years imprisonment with an extended licence of five years. The prosecution argues that, if convicted, the applicant faces a similar sentence and, accordingly, that such would be a powerful incentive for the applicant to abscond.

[38] The prosecution also argues that on 30 May 2018, the applicant was convicted in Dublin of membership of the IRA. The applicant was sentenced to imprisonment for four years and 11 months. Therefore, according to the prosecution, this court should treat him as a dedicated member of a dissident republican organisation who have the means and connections to facilitate his escape, irrespective of bail conditions. In support of this argument, the prosecution highlights that Sean Farrell absconded whilst on extradition bail in the Republic of Ireland and was only apprehended in May 2020. It is submitted that Sean Farrell's flight bears the hallmarks of a sophisticated and determined attempt to frustrate the judicial process and is likely to have been facilitated by a network of committed dissidents.

[39] I do not accept the submission made by the prosecution that, but for the fact that the applicant was serving a sentence of imprisonment in the Republic of Ireland, he would also have absconded whilst on extradition bail. It is axiomatic that the court must consider the personal circumstances relating to each applicant for bail against the purported risks in relation to each applicant. The fact that a co-accused, charged with similar offences, absconded whilst on extradition bail cannot be a determining factor in refusing bail to this applicant.

[40] In my judgment, the severity of a potential sentence, although important, cannot be a decisive factor to justify the refusal of bail. Although not referred to in legal argument in this application, I take into consideration the decision of the Strasbourg Court in *Becciev v Moldova* (2007) 45 EHRR 11 at para [58]:

> "58. The danger of an accused's absconding cannot be gauged solely on the basis of the severity of the sentence risked. It must be assessed with reference to a number of other relevant factors which may either confirm the existence of a danger of absconding or make it appear so slight that it cannot justify detention pending trial ... The risk of absconding has to be assessed in light of the factors relating to the person's character, his morals, home, occupation, assets, family ties and all kinds of links with the country in which he is prosecuted. The expectation of heavy sentence and the weight of evidence may be relevant but is not as such decisive and the possibility of

> obtaining guarantees may have to be used to offset any risk..."

[41] The prosecution submit that the applicant was born in and resides in the Republic of Ireland. He has no ties to this jurisdiction. If the applicant was bailed to an address in the Republic of Ireland, it would be virtually impossible to monitor and effectively enforce any bail conditions. The applicant, on the other hand, submits that he has strong family ties and that his family are prepared to put forward a cash surety of £5,000 to show his commitment to comply with any bail conditions.

[42] I have carefully considered the respective submissions made by the prosecution and the defence in relation to the risk of flight. I have also reflected on the following passage in the judgment of the ECtHR in *Neumeister v Austria* (1968) ECHR 1, which stated that:

> "The danger of flight necessarily decreases as the time spent in detention passes by, for the probability that the length of detention on remand will be deducted from the period of imprisonment which the person concerned may expect, if convicted, is likely to make the prospect seem less awesome to him and reduce his temptation to flee."

[43] The sentiments expressed by the ECtHR in *Becciev v Moldova* and *Neumeister v Austria* are plainly relevant to objections to bail based on risks of absconding. As stated above, the severity of a potential sentence, though relevant, cannot be a determining factor to justify a refusal of bail. Also, the risks of flight necessarily decrease the longer a defendant spends in custody, since the period on remand will be deducted from a period of imprisonment, if convicted. Nevertheless, having carefully balanced all the relevant factors, in my view, there remains a real risk that the applicant will abscond if granted bail. In coming to this decision, I am influenced by the fact that when arrested in the Republic of Ireland in 2017, the applicant strenuously contested extradition proceedings. I am not persuaded that, even if stringent bail conditions are imposed, the applicant would not abscond thereby requiring further extradition proceedings in the event that he is traced.

[44] A further determining factor, in my judgment, is the fact that the trial has commenced and will conclude in the near future. The prosecution evidence has almost concluded and, subject to defence evidence, various legal applications and submissions, the trial should end in the near future.

Risk of further offending

[45] The prosecution submit that the applicant has been convicted of a relevant conviction, namely membership of the IRA in 2018. The prosecution further argues that this conviction together with the underlying facts in this trial indicate that the

applicant is a member of a group of dissident republicans who remain extremely active, dangerous and determined to kill, maim and terrorise.

[45] For the purpose of this bail application, I am not prepared to accept that the alleged underlying factual circumstances in this trial give rise to a conclusion that the applicant is a dissident republican, determined to commit further offences if released. The allegations remain unproven.

[46] Nevertheless, I remain concerned that there is a real risk that the applicant will commit further offences if released. That concern is based upon the fact that whilst on extradition bail in the Republic of Ireland in 2017, he committed further offences which ultimately resulted in his arrest and conviction in 2018. Accordingly, there is a risk of the potential commission of further serious offences, and it is difficult to see how bail conditions could be imposed which would effectively mitigate or obviate such a risk.

Conclusion

[47] For the reasons outlined above, the application for bail is refused.