

**IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND**

**QUEEN'S BENCH DIVISION**

**IN THE MATTER OF MR,  
an Applicant for Bail**

**McCLOSKEY J**

[1] Recently, there has been a detectable rise in the number of prosecutions for immigration type offences – such as unlawfully entering the United Kingdom, unlawfully remaining in the United Kingdom, unlawfully working, engaging in sham marriages and kindred offences. This trend is reflected in an increased number of applications for bail in the High Court in cases of this kind.

[2] Practitioners should understand clearly that, in every bail application of this *genre*, certain basic documentary materials should be obtained and produced. These include the following:

- (i) All documents pertaining to the Applicant's entry into and remainder in the United Kingdom. Self-evidently, this will incorporate all relevant permits from the Border Agency and its predecessor.
- (ii) Any correspondence bearing on (i) above.
- (iii) The Applicant's passport or identity card.
- (iv) All formal Notices of any kind served on the Applicant by the Border Agency.
- (v) Where applicable, any application for asylum and the Border Agency responses/letters/pro-formae relating thereto.

- (vi) Records of relevant interviews conducted by Border Agency personnel.
- (vii) Any grant of administrative bail by the Border Agency.
- (viii) Records of any material interviews conducted by the Police Service.
- (ix) Any documents bearing on the Applicant's employment in this jurisdiction.
- (x) Any documents bearing on where the Applicant resides, the residence arrangements and related matters.
- (xi) Any documents bearing on personal assets and ties with this jurisdiction.

The above is not intended to be an exhaustive list.

**[3]** It is essential that the court have available all documentation of the kind rehearsed above in order to determine the application for bail on as fully informed a basis as possible, having regard to the interests of all concerned. In particular, this documentation will facilitate informed evaluation of the Crown objections to bail, which frequently (though not exclusively) are based on the risk of absconding.

**[4]** In the vast majority of cases of this kind, all, or most, of the documentation listed above is available. The responsibility for collating the documentation rests on the Applicant's solicitors, who must proactively and timeously liaise with his client and the other agencies concerned, in particular the Border Agency and the Police Service.

**[5]** Applications for bail which do not append the above documentation are likely to be treated as incomplete by the court. Experience shows that many such applications are found to be incomplete, giving rise to adjournments. The adverse consequences of this are avoidable delay and avoidable increased cost. In this court's experience, such adjournments have become the rule, rather than the exception. This is both disappointing and undesirable.

**[6]** At a practical level, the bail application pro-forma should be completed as comprehensively as possible and should, where appropriate, make reference to the attached documents. The latter should be assembled in coherent form and, where possible and appropriate, with accompanying index and pagination. The completed application should also address fully the issues of available sureties or other forms of guarantee, proposed bail address (including the name of the owner/occupier/landlord) and any employment available to the applicant (to include the employer's name and address and that of the business concerned. The applicant's personal resources and assets, together with comprehensive particulars of his connection with this jurisdiction, should also be fully addressed.

[7] There are, broadly, two issues of principle in play. The first is that every bail application should be complete. Incomplete bail applications have no place in any court's list, unless there are exceptional or extenuating circumstances. The second principle is that in every application for bail, the court must be enabled to make as fully informed a decision as possible.

[8] Finally, it is the court's experience that interpreters are increasingly being required to attend bail hearings unnecessarily. This gives rise to pre-eminently avoidable personal inconvenience and, graver still, a drain on the public purse. Practitioners are urged to ensure that these mischiefs are avoided.