

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

[2018] EWHC 3948 (Admin)

CO/2616/2018

Royal Courts of Justice

Friday, 6 July 2018

Before:

MR JUSTICE JULIAN KNOWLES

B E T W E E N :

JUDGE OF INSTRUCTION WITH THE COURT OF FIRST INSTANCE

WEST-FLANDERS DIVISION, BRUGES Appellant

- and -

DAUTI Respondent

J U D G M E N T

A P P E A R A N C E S

MR A DOS SANTOS (instructed by CPS (Extradition)) appeared on behalf of the Appellant.

MR D WILLIAMS (instructed by McMillan Williams) appeared on behalf of the Respondent.

MR JUSTICE JULIAN KNOWLES:

1. This is an appeal by the issuing judicial authority, a Belgian judge in the West-Flanders Division of the Court of First Instance, against the grant of conditional bail to the defendant, Kudeshi Dauti. On 4 July 2018 District Judge Crane granted Mr Dauti conditional bail on the following conditions; a security of £10,000, which has been paid; to live and sleep each night at an address in Hornchurch; an electronically monitored curfew between 10 pm and 5 am; reporting to Leyton Police Station every Monday and Friday between 12pm and 5pm; not to enter any international travel hub (ie, Eurostar terminal or airport or port); not to apply for or possess any international travel documents. Also, his certificate of travel is to be retained by the police. His biometric card, which is currently with the Home Office in connection with an application for British citizenship, is not to be returned to him. Also, his mobile phone is to be kept charged and on twenty-four hours a day, seven days a week, and he is to check his voicemail regularly.
2. The defendant's extradition is sought by the issuing judicial authority pursuant to a European arrest warrant issued on 16 April 2017 in Belgium, which, of course, is a Category 1 territory for the purposes of the Extradition Act 2003. The EAW is an accusation EAW and relates to an allegation of human trafficking. In summary, it is alleged that on the night of 18 to 19 February of this year three members of the trafficking gang, driving two Albanian-registered cars, were caught in Belgium bringing a group of Albanian migrants to the United Kingdom. They were to be transferred to a Romanian-registered lorry and then brought to the UK. It is alleged that the truck driver had been recruited in the UK and offered payment for smuggling people into the UK.
3. It is said that this defendant's role in the gang, as well as having communication with them as part of the logistics, was to recruit people in Albanian who were interested in coming to the United Kingdom. The Framework list is not ticked but the EAW indicates that the maximum sentence is one of fifteen to twenty years' imprisonment.
4. The defendant was arrested in June of this year in Leyton and thereafter was

brought before the Magistrates' Court. I am told that there are two others who were also arrested in connection with the same criminal investigation; a relative of this defendant (also called Dauti) who was remanded in custody and a man called Sabba Zeka(?), who was released on conditional bail on similar conditions, albeit with a larger security. He was released on conditional bail and there has been no appeal by the issuing judicial authority in respect of Mr Zeka.

5. On behalf of the appellant today, Mr Dos Santos reminds me correctly that this is a *de novo* hearing. In other words, it is for me to make my own decision as to whether conditional bail should be granted and Mr Dos Santos concedes, as is right, that there is a presumption, this being an accusation case, in favour of the grant of bail and I have to be satisfied that there are no conditions which could be imposed which would secure Mr Dauti's attendance during the extradition proceedings, the ground of objection to bail being that because of the seriousness of the offence, and the nature of the offence, it being transnational and said to have been conducted by an organised group, there are real risks that he will fail to attend. Mr Dos Santos reminds me that it is a serious offence, has aggravating components, namely the group and its transnational nature, and he also points to the fact that the maximum sentence is a lengthy sentence of imprisonment.
- 6.
7. On behalf of Mr Dauti, Mr Williams submits that the judge was right to grant bail and he submits that I also should admit Mr Dauti to conditional bail. He relies on the following factors. First of all, Mr Dauti has been in the United Kingdom for a long time. He was granted asylum as a refugee from Kosovo and currently has indefinite leave to remain in the United Kingdom and he is currently, as I have indicated, in the process of applying for British citizenship with the Home Office. Mr Williams says, and I accept, that Mr Dauti has a wife who he has been married to for six or seven years. They have two children, a daughter aged three and a half and a son aged two. The daughter attends nursery and will start school in due course in Hornchurch and the son similarly will go to nursery and then school thereafter. So, says Mr Williams, he has firm family ties and, indeed, Mr Williams says there is an extended family, many of whom have attended court today.
- 8.
9. Mr Dauti works in the construction industry earning about £19,000 a year. He works with cranes and supervises the dropping of loads by cranes. I have seen both a tenancy agreement for his property in Hornchurch, where he has lived for some considerable time, and I have also seen evidence of his employment, namely documents under the Construction Contractors' Scheme.
- 10.
11. It is right that this matter is *de novo* before me. In other words it is for me to

make my own decision on bail, as opposed to my considering whether the judge went wrong. However I am bound to say as I observed to Mr Dos Santos although it is a matter for me I should, it seems to me, and this is consistent with principle, have a degree of deference to the decision of the District Judge to grant conditional bail. District Judges handling extradition cases at Westminster Magistrates' Court deal with a very, very high volume of bail applications and develop an instinct for when it is appropriate to grant bail and when it is not appropriate to grant bail. Hence, although the decision today is one for me, that is not a matter I leave entirely out of account.

12.

13. On balance, I am satisfied that it is appropriate to grant conditional bail and therefore I dismiss the appeal. I am satisfied that conditions of bail can be imposed that will secure Mr Dauti's attendance. My reasons are as follows: Firstly, he is a refugee here. Refugee status is not easily gained and will not likely be given away and, in my view, that is a powerful protective factor which weighs heavily in favour of Mr Dauti staying within this jurisdiction to contest the extradition proceedings against him. Secondly, he is not just a refugee here, he is a refugee here who has been settled for a very considerable period of time. Thirdly, he has a settled family life here in terms of his wife and children and again I regard it as unlikely that he would uproot them, even if he was otherwise minded to do so, and take them into a state where their future would be uncertain. Fourthly, he has stable employment here that is comparatively well paid and, again, I view that as a protective factor. Fifthly, he plainly has a strong extended family here who will provide support and, again, I regard it as unlikely that he would jeopardise that extended family network by fleeing abroad and making himself a fugitive.

14.

15. Taking those matters together, which are an unusual combination of features in the context of a case like this, and again having a degree of deference to the decision of the District Judge, but judging matters for myself, these matters are sufficient to ensure together with the bail conditions which I am going to impose in a moment Mr Dauti's continued attendance at the extradition proceedings in the United Kingdom.

16.

17. I am going to order that bail continue on the same terms as the District Judge but with one change. He is to report to Leyton Police Station every day between 12 pm and 5pm. That can be the condition to start with. Obviously as time goes on he can apply to vary that if it is too onerous and that is frequently done. Courts frequently order very regular reporting and then relax them as matters settle down.

18.

19. So the bail conditions I am going to order are the security of £10,000. That has been paid. He is to live and sleep each night at 9a Suttons Lane, Hornchurch, RM12 6RD. He is to be subject to an electronically monitored curfew 10 pm to 5 am, and it needs to be made clear to him, as I am sure it will be if it has not already, that checks can be and are made and that if he is found to be in breach of curfew undoubtedly he will be remanded in custody. He is to report to Leyton Police Station, that being the police station closest to his current place of work, every weekday, that is Monday to Friday, between 12 pm and 5 pm. He is not to enter any international travel hub, that means airport, port, Eurostar station or any place where it is possible to travel outside of the United Kingdom. He is not to apply for or possess any international travel documents. His certificate of travel is to be retained by the police. I am told that has expired but the police are to retain that. His biometric card, which is with the Home Office in connection with his citizenship application, is to be retained by the Home Office and not to be returned to him. He is to keep his mobile phone charged at all times and he is to regularly check his voicemail; the purpose of that being so that the police can check on his whereabouts.

20.

21. So for all those reasons, I dismiss this appeal and Mr Dauti will be admitted to conditional bail on the terms I have indicated.

MR WILLIAMS: My Lord, I am sorry, just one thing.

MR JUSTICE JULIAN KNOWLES: Yes.

MR WILLIAMS: The money has not actually been paid.

MR JUSTICE JULIAN KNOWLES: Right.

MR WILLIAMS: They will not accept it whilst the appeal was pending.

MR JUSTICE JULIAN KNOWLES: Oh, I see. Okay, thank you. Well, once the security has been paid, which I hope will happen today, then he can be admitted----

MR WILLIAMS: Thank you, my Lord.

MR JUSTICE JULIAN KNOWLES: -- to bail. Right, was there anything else?

MR DOS SANTOS: No, thank you.

MR JUSTICE JULIAN KNOWLES: Thank you very much. Thank you, Mr Williams.

MR WILLIAMS: Thank you, my Lord.