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IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT
[2023] EWHC 494 (Admin)



No. CO/381/2023

Royal Courts of Justice

Tuesday, 7 February 2023

Before:

MR JUSTICE CHAMBERLAIN

BETWEEN :

JANIS ERNSTREITS

Applicant

- and -

MUNICIPAL STATE ATTORNEY OFFICE OSIJEK CROATIA

Respondent

MR M CLEDGE appeared on behalf of the Applicant.

MS A BOSTOCK appeared on behalf of the Respondent.

J U D G M E N T

MR JUSTICE CHAMBERLAIN:

- 1 Janis Ernstreits is a national of Latvia and applies for bail pursuant to section 22 of the Criminal Justice Act 1967. He is 32 years old and is sought by Croatia to stand trial in relation to an offence of fraud said to have been committed between 12 and 14 September 2013. The extradition hearing is listed on 20 February 2023. The offence is said to have involved purchasing petrol in the knowledge that he did not have the funds for the final amount. This is alleged to have been done electronically. The value of the fraud is said to be approximately £20,000. The maximum sentence which could be imposed is three years' imprisonment. A domestic warrant was issued for his arrest on 8 February 2022. An arrest warrant under the Trade and Cooperation Agreement was issued on 11 March 2022 and certified on 7 July 2022.
- 2 The applicant was arrested and brought before Westminster Magistrates' Court on 3 November 2022. On that date he was admitted to bail with stringent conditions imposed. On 26 November he was arrested on another matter and taken to hospital. He was brought before the court on 30 November where the CPS invited the judge to revoke his bail because he had breached his residence, curfew and signing on conditions on numerous occasions. The judge readmitted him to bail, modifying his conditions.
- 3 On 2 January 2023 the applicant was arrested, again for failing to report as required. His lawyers submitted medical records showing that he regularly attends the accident & emergency department at the local hospital for collapses and seizures related to alcoholism and alcohol withdrawal, and injuries related to intoxication. The judge remanded him in custody. Another application was made on 5 January once further medical records had become available. Bail was refused on the basis that the new medical records added little to what was known before.
- 4 For the applicant, Mr Matei Clej submits that medical records show the applicant has a brain injury suffered in 2018. He suffers from epilepsy and is dependent on alcohol. He sometimes uses crack cocaine. He has been to A&E 28 times in the past 24 months. He has had difficulty complying with his bail conditions, especially that which requires him to sign on at a police station. Mr Clej now relies on a psychiatric report of Dr Kalapathy dated 24 January 2023. This shows that the appellant is a vulnerable individual who would, it is said, find it distressing to be detained in a Croatian prison, but nonetheless he is fit to plead.
- 5 A number of potential bail conditions have been imposed. Because the appellant is sought for trial rather than conviction, the presumption in favour of bail applies. In my judgment, however, it is firmly displaced on the facts of this case. I accept that the evidence does indeed show that the applicant is a vulnerable individual whose complex medical conditions contribute to his chaotic lifestyle. However, the question for me is whether the conditions proposed reduce to an acceptable level the risk that he will fail to surrender. In my judgment, they do not. The history of breaches in this case shows not only that the applicant lacks the discipline to comply with reporting conditions, but also that he is quite capable of going to ground. I note that on a previous occasion when he was arrested, he was found to have left the address at which he was required by his bail conditions to reside. The evidence shows that a relaxation or modification of the conditions has, in the past, failed to assist the applicant with compliance.
- 6 Mr Clej submits that I should grant bail subject to reporting conditions which require the applicant to report earlier in the day before he is affected by drink. I do not consider that appropriate. I accept the submissions of Ms Amanda Bostock for the Croatian authority that, on the evidence the applicant's medical conditions, alcohol dependence and chaotic

lifestyle mean that there are no conditions which will reduce to an acceptable level the risk that he will fail to surrender. Although I bear in mind the difficulties he is likely to face in prison as a result of various medical conditions and dependencies, none of these conditions are particularly unusual in prison establishments and the medical staff there will be well equipped to provide whatever treatment is required. For these reasons I refuse bail.

CERTIFICATE

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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This transcript has been approved by the Judge