



Neutral Citation Number: [2021] EWHC 2373 (Admin)

Case No: CO/2714/2021

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

24th August 2021

Before :

MR JUSTICE FORDHAM

Between :

MARIAN CORNEA
- and -
TRIBUNAL ARGES, ROMANIA

Applicant

Respondent

Abigail Bright (instructed by Dalton Holmes Gray) for the **Applicant**
Tom Cockroft (instructed by Crown Prosecution Service) for the **Respondent**

Hearing date: 24.8.21

Judgment as delivered in open court at the hearing

Approved Judgment

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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THE HON. MR JUSTICE FORDHAM

Note: This judgment was produced for the parties, approved by the Judge, after using voice-recognition software during an ex tempore judgment in a Coronavirus remote hearing.

MR JUSTICE FORDHAM :

1. This is an application for bail in an extradition case, bail having been refused in the magistrates' court. My jurisdiction is to consider bail afresh. This has been a remote hearing by MS Teams. I am quite satisfied that that mode of hearing involved no prejudice to the interests of the parties. What happened in this case was that Mr Cockroft has other engagements in another court that opened at 9 o'clock this morning. Ms Bright, to her great credit, was prepared to accommodate a remote hearing, as has the Court. In open justice terms there has been a glitch. Everybody expected the hearing to be at 9:05 and that is what the parties had prepared for. However, it transpired that the cause list for today has recorded this hearing as being due to take place at 9:30. I decided to proceed when everyone was ready, at 9:15, and I am giving this ex tempore ruling now (it is now 9:22). The circumstances are these. One member of the legal press or law reporter had contacted the Court and wished to observe. My clerk was able to alert that person to the earlier start time and that person has been present throughout. Nobody else has taken advantage of the email address published in the cause list to seek to observe this hearing. Were they to do so now they would be immediately admitted to the hearing, and if necessary the skeleton arguments could be provided to that person. They would have missed nothing of substance since neither Counsel added to their skeleton arguments this morning, being satisfied that those arguments were comprehensive and up to date. This ruling is in any event one which will be available in the public domain including to anyone who felt they had missed out on observing the hearing. It is on that basis that we have proceeded, ahead of the time mistakenly given in the cause list. Finally, the hearing has in any event been recorded and one of the consequences of the recording is that a transcript could, if necessary, be obtained from the recording. It would not in my judgment have been justified to wait until 9:30. The open justice principle, in all the circumstances, has been secured. Back to the case.
2. The Applicant is aged 49 and is wanted for extradition to Romania. That is in conjunction with a conviction EAW (European Arrest Warrant) issued on 18 November 2020 and certified on 25 June 2021. Because it is a conviction warrant there is no presumption in favour of the grant of bail. The index offending, to which the EAW relates, was an offence of bribery of a public official which took place in March 2014 when the Applicant was 41. He has some previous convictions in Romania and indeed was convicted of assaults later in 2014. I am told, and I accept for the purposes of this application for bail, that he and the family came to the United Kingdom in 2016 and have been here ever since. The custodial sentence to which the EAW relates, when everything relevant is taken into account, comes to some 38 months of custody and on the basis that he has now served nearly a month of qualifying remand it can be taken on the face of it he faces around 3 years in custody in Romania.
3. Ms Bright has set out comprehensively and clearly in writing for the Court the basis on which bail is invited. In essence, in my judgment, it comes to this. The Applicant has clear and durable community ties with the United Kingdom arising from the 5 years during which the family has been present here, as a family unit. There is a long-term relationship between the Applicant and his partner and their four children, now aged 29, 27, 22 and 12. The 22 and 12 year olds live at home. The 12 year old is attending school in this country. The Applicant has no convictions or cautions or warnings during his period in the United Kingdom. He has in his record no offence of failing to surrender in any jurisdiction. The Court should not hold against him the description of the

arresting officer for having been ‘hiding behind the door of a bedroom’, something which he says is a misapprehension of what was going on. Suitable and stringent proposed bail conditions have been identified including a pre-release security of £5,000, an overnight daily electronically-monitored curfew and the usual sorts of conditions relating to travel documents, retention of passport, international travel hubs, a residence requirement, and a daily reporting requirement at a police station. Insofar as there are concerns that the Applicant would if released fail to surrender those conditions serve to allay those concerns. There are, in all the circumstances, no substantial grounds for believing that if released on those conditions the Applicant would fail to surrender.

4. I am not prepared to grant bail in this case. The assessment at which I have arrived does not turn on the description of ‘hiding behind a door’ and who is right and who is wrong about that. I have assessed the position objectively in the light of all the circumstances of the case and having regard to the points made by Ms Bright and those identified by Mr Cockroft.
 - i) The starting point is that these are serious matters. 3 years is a substantial period of custody which the Applicant is facing. It serves as a strong incentive so far as concerns avoiding serving that term if possible.
 - ii) The second point that materially weighs in the balance, in my judgment, is that this is a case in which it is appropriate to proceed on the basis that there is strong evidence that the Applicant came to the United Kingdom as a fugitive. I am not making findings of fact. An extradition hearing is listed in this case for, I think, 10 December 2021. Nothing that I say is intended to influence a judge who is considering the facts and circumstances of this case. What I am doing is assessing risk. On the face of it the Applicant had been detained in conjunction with criminal proceedings or an investigation relating to the bribery offence for a day on 16 May 2014. On the face of the material, he had also attended his criminal trial in Romania. It was against that backcloth that he and the family subsequently came to the United Kingdom in 2016. There is a sufficient basis, in my judgment, for the purposes of assessing risk, to take as a premise that he came or may well have come to the United Kingdom as a fugitive and that he came to the United Kingdom knowing perfectly well of the Romanian proceedings and their implications.
 - iii) The third point arises out of the second. What it means for the purposes of the assessment of risk is that this was a family which mobilised, with the Applicant leaving behind these very matters. The family relocated from Romania to the UK in circumstances where the youngest was around age 6 and the second youngest around age 16. Leaving to one side what they did as a family, the Applicant himself relocated. He did so leaving behind these very matters. And he did so by crossing borders.
 - iv) The final point that weighs in the balance, in my judgment, in this case is that the Applicant may well perceive that he has no strong prospect of resisting extradition. Again, I emphasise that I am not assessing the substantive merits of the extradition case. That is not my role. I repeat that nothing that I am saying in this bail ruling should have any influence on any judge who is doing so. But in my assessment of risk the very real prospect, that the Applicant may well perceive, of soon or relatively soon having to return to Romania to face the

balance of the 3 year custodial sentence together with the other facts and circumstances of the case lead me to conclude that there are substantial grounds to believe that if released by me on bail the Applicant would fail to surrender, notwithstanding the proposed bail conditions put forward.

I am in no way reviewing the decisions of District Judge Brennan and District Judge Baraitser, each of whom refused bail (in July 2021 and August 2021) in this case. But having considered all the circumstances, with the assistance of both Counsel, and looking at the matter afresh, I have in the event arrived at the same conclusion. For those reasons bail is refused.

4.8.21