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SAMEDI DIVISION

16th June, 1988

Before: The Bailiff, Jurats Hamon & Gruchy

Attorney General -v- Frederick William Augustus Harvey

Application to review decision by Police Court Magistrate to refuse bail.

Advocate D.E. Le Cornu for applicant.

Advocate S.C. Nicolle for the Crown.

BAILIFF: In considering this application, Mr. Le Cornu, Miss Nicolle we have, of course, the position that this is a request of this Court to review the exercise of the learned Assistant Magistrate or Relief Magistrate's decision to refuse bail. It is not an application 'de novo.' But we are entitled, as indeed we have done, to look at the matters that were before the learned Relief Magistrate to see whether there are any, or were any, additional matters that were put before us this morning by Mr. Le Cornu which, had they been before the Assistant Magistrate, might have enabled him had he so wished, to grant bail. We are satisfied that apart from the question of the United States Proceedings which if anything would incline against the grant of bail, everything else that was said to us today was in fact, in the main, before the Relief Magistrate and was very carefully and strongly canvassed by Mr. Le Cornu.

We take the view that, and we accept that, the test to be applied, of course, is whether an applicant or accused person is likely to answer to his bail and attend for his trial, and whether it would be trial of liability or (indistinct) or the actual sentencing of the guilty pleadings. We have been told this morning by you, Mr. Le

Cornu, that your client is going to change his plea in due course. But that is not a matter really which is of great moment. The point is that we have to ask ourselves did the Relief Magistrate mis-direct himself in any way in deciding not to grant bail. We cannot overlook the fact that—in spite of your suggestion, and it is supported by eminent people who have known your client for many years and would be prepared to assist this Court in seeing that the any conditions we impose so far as treatment was concerned would be followed up — we cannot overlook the fact that there is no compulsion that can be effective towards that treatment as regards policing it, for example, either by the Probation service in England over whom we have no jurisdiction, and certainly not by the Police in England; and we note that although you have made a very honest plea for this Court to allow your client to undergo this treatment, in the transcript, and I refer to page 6, you say that the decision which he arrived at, which you stress today was only made within the last 24 to 36 hours that he has to do something to do about it: If he was really serious, we have to ask ourselves (we have little doubt that Mr. Trott did the same) about undergoing the treatment, why did he not do it before coming to Jersey with a considerable quantity of this drug in his possession. We cannot say, Mr Le Cornu, that the relief Magistrate mis-directed himself or reached a decision which would be wrong for us to support. Therefore the application is dismissed.

Authorities cited

A.G. -v- Young (1980) JJ p.281