

ROYAL COURT
(Samedi Division)

21st June, 1996.

119.

Before: The Deputy Bailiff and Jurats Le Ruez
and de Veulle.

The Attorney General

-v-

Philip Heys

Application for review of Magistrate's refusal of bail.

On 23rd April, 1996,

the applicant pleaded not guilty to:

1 count of criminally conspiring with another to supply a controlled drug (diamorphine) (Count 1);

1 count of being knowingly concerned in the fraudulent evasion of the prohibition on the importation of a controlled drug (diamorphine), contrary to Article 77(b) of the Customs and Excise (General Provisions) (Jersey) Law, 1972 (Count 2);

the applicant pleaded guilty to:

1 count of possession of a controlled drug (cannabis resin), contrary to Article 6(1) of the Misuse of Drugs (Jersey) Law 1978 (Count 3).

The applicant was remanded in custody, without bail option.

On 17th May, 1996,

the applicant was again remanded in custody, without bail option, pending trial before Royal Court;

On 17th June, 1996,

The applicant applied for bail, which was refused.

Advocate P. Matthews on behalf of the Attorney General.
Advocate M. Thompson for the Applicant.

JUDGMENT

THE DEPUTY BAILIFF: This case has caused us considerable concern, but we are going to grant bail on compassionate grounds and on a very limited basis in view of the seriousness of the charge.

We regard this case as totally exceptional. We have a charge of criminally conspiring with another to supply 376.8 grams of heroin with a street value of £113,000.00 and, of course, that is coupled with a charge under Article 77(b) of the Customs and Excise (General Provisions)(Jersey) Law, 1972, which deals with knowingly being concerned in the fraudulent evasion of the prohibition in respect of the importation of that heroin.

The applicant's brother committed suicide in February and as a result of that his sister committed suicide last Thursday. We are told that the funeral is on Wednesday of next week. The applicant is 34 and, as the Magistrate pointed out, he has a record, but nothing since 1984 and nothing drug related. Unlike some of the cases to which we have been referred, he is not a stranger to the Island, he is Jersey born and had lived in Jersey all of his life. The Magistrate - and we are quite certain that he was right in what he said - dealt with the matter on the basis of the seriousness of the charge and the fact that Centenier Patton took the view that he was likely to abscond, although there was no further questioning on that point by the Magistrate.

Things have slightly changed from the application made to the Magistrate because Miss Anna-Marie Gara is prepared in order to allow a home visit to put her life savings of £5,000 as surety. We have thought very deeply about the fact that no approach has been made to the Prison authorities and we are sure that if that application had been made it would have been sympathetically considered. However, we are going to allow bail on these particular terms, Miss Gara must give an irrevocable letter of authority to the Viscount for the withdrawal of the £5,000.00 and it will only be enforced, as the money is in the National Savings Bank, if the bail is estreated. The conditions of the bail are these: Heys may be released on bail for the period from 10.00 a.m. on the day before the funeral until 7.00 p.m. on the day of the funeral. During that period he must live in his mother's home and remain in the house for the whole of that time, except when attending the funeral. He will surrender to his bail at 7.00 p.m. on the day of the funeral to a Viscount's Officer who will attend at the property at that time.

Authorities

A.G. -v- McNally (3rd February, 1995) Jersey Unreported.

Representation of Makarios (1978) JJ 215.

A.G. -v- Skinner (24th June, 1994) Jersey Unreported.