

67/80

## QUEEN'S BENCH DIVISION

***R v NOTTINGHAM JUSTICES; ex parte DAVIES***

Donaldson LJ and Bristow J

30 April, 2 May 1980 — [1980] 2 All ER 775; (1980) 3 WLR 15; [1981] QB 38

**JUSTICES – BAIL – APPLICATION FOR BAIL – PREVIOUS APPLICATIONS FOR BAIL REFUSED – NO CHANGE IN CIRCUMSTANCES SINCE PREVIOUS APPLICATIONS – WHETHER JUSTICES TO CONSIDER ALL MATTERS BEFORE COURT ON PREVIOUS OCCASION: BAIL ACT 1976 (C63), S4, Sch 1, Pt I, PARA 2.**

The applicant, who had been granted bail, was charged with other offences, including rape, alleged to have been committed while he was on bail. He was re-arrested and pending trial was remanded in custody. He applied on two consecutive weeks for bail but, on both occasions, the justices refused to grant bail under section 4 of the *Bail Act* 1976 as they were satisfied, in accordance with paragraph 2 of Part I of Schedule 1 to the Act, that there were substantial grounds for believing that the applicant would commit an offence if released on bail and would fail to surrender at the expiration of the bail period. The following week a further application for bail was made but the justices, having been informed by the applicant's solicitor that there had been no change in the circumstances appertaining to the applicant or to the offence charged, refused to consider the facts before the court on the previous occasion. The justices refusal was based on a policy which the Bench of justices for the area had recently adopted that, after a second application for bail, they would not consider on subsequent applications matters previously before the court unless there had been a change in the circumstances.

On an application for an order of mandamus directed to the justices requiring them to hear the full facts supporting and determine the application for bail—

**HELD:** refusing the application, that, although the court had a duty under section 4 of the Act to consider granting bail on every application, a previous refusal of bail by a court was a finding that the court was satisfied that one or more of the exceptions in Schedule I to the granting of bail existed and as such the matter was *res judicata* or analogous thereto unless that finding was reversed on appeal to the judge in chambers; that, accordingly, justices considering a renewed application for bail had no duty to reconsider matters previously considered but should confine themselves to circumstances which had since occurred or to matters not brought to the attention of the court on the previous occasion.

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