

04/13; [2012] VSC 646

SUPREME COURT OF VICTORIA

R v REDENBACH

Coghlan J

19 December 2012

CRIMINAL LAW – BAIL APPLICATION – ACCUSED CHARGED WITH SEVERAL OFFENCES SOME OF WHICH WERE ALLEGED TO HAVE BEEN COMMITTED WHILST ON BAIL – ACCUSED CHARGED WITH POSSESSION OF A DRUG IN NOT LESS THAN A COMMERCIAL QUANTITY – ACCUSED REQUIRED TO SHOW EXCEPTIONAL CIRCUMSTANCES FOR RELEASE ON BAIL – DELAY IN RELATION TO THE DRUG OFFENCES – EFFECT ON THE ACCUSED'S FAMILY IF BAIL NOT GRANTED – INDEFINITE NATURE OF THE PROSECUTION CASE ON THE DRUG CHARGES – WHETHER EXCEPTIONAL CIRCUMSTANCES – WHETHER ACCUSED AN UNACCEPTABLE RISK OF ANSWERING BAIL IF RELEASED.

HELD: Application for bail refused.

1. The question of delay in this case did not amount to exceptional circumstances. The circumstances of the applicant's family were unfortunate but not of themselves or in connection with delay exceptional.

2. The accused was on a suspended sentence. He had breached one set of bail. The material found at his home included a false licence and a false handgun licence. There was material relating to a passport and a birth certificate although in the name of a female. One of the licences found had been stolen in December 2011 and could not possibly have had anything to do with the earlier offending.

3. The accused was an unacceptable risk of answering his bail even subject to the offering of a surety and/or re-offending. Accordingly, the application for bail was dismissed.

COGHLAN J:

1. By notice dated 10 December 2012, Carl Redenbach makes application for bail. There are two sets of matters for which bail is necessary. The first set of matters relate to retaining stolen goods, three charges of receiving stolen goods and dealing with the proceeds of crime.

2. On those charges he was bailed to the Ringwood Magistrates' Court. He was obliged to report three times a week as a condition of that bail.

3. On 24 May 2012 the police attended his premises at 23 William Leake Avenue Seabrook, he was not present but an associate Sam Cowley was. On searching a shed at the premises the police recovered various drug paraphernalia and items relating to the making of and possession of false documents.

4. On 28 May 2012 the applicant failed to answer his bail at the Ringwood Magistrates' Court and thereafter did not report as per his bail conditions.

5. On 12 July he was apprehended at his mother's house in Traralgon. He was charged on that day with offences relating to cannabis, possession of a machine designed to make a false document, two charges relating to receiving stolen goods which related to a driver licence, a passport and a birth certificate.

6. Subsequently on 22 August 2012 he was charged with other offences relating to altering vehicle licences and possession of relevant equipment. He was also charged with possession of precursor chemicals and effectively maintaining a laboratory.

7. A receiving stolen goods charge was laid on 3 October 2012. Photographs of the shed were exhibited to the affidavit of Emma Kate Taylor filed in opposition to the bail application. Those photographs were to indicate that the drug related material had not recently been placed in the shed.

8. At that stage the applicant was in a show cause position it having been alleged that he had committed an offence whilst on bail.
9. On 13 November 2012 the Office of Public Prosecutions received material which indicated that in the material seized on 24 May 2012 there was a liquid which contained GHB in not less than a commercial quantity and on 13 November 2012 the applicant was charged with that offence. He is, therefore, with respect to that in a position where he can only be admitted to bail if he shows exceptional circumstances.
10. To complete the relevant picture. He was released on a 12 month suspended sentence on 27 July 2011. The operational period of that sentence is 18 months. That sentence related to convictions for trafficking and possession of methyl amphetamines, dealing with property suspected of being the proceeds of crime, possession of equipment capable of making false documents and making false identifications.
11. The suspended sentence is in operation until about January next year.
12. All of the alleged offending is in breach of that suspended sentence.
13. All the material referred to in the first set of charges was recovered at the applicant's home. I have read the record of interview and it is not clear to me that the applicant has a defence to many of those charges. They are next listed for mention on 24 January 2013.
14. It has been urged on me by Mr K. Oldis who appeared for the applicant, that exceptional circumstances have been shown because of delay, the effect on the family of the applicant and the indefinite nature of the prosecution case on the drug charges.
15. There is a committal listed for March next year, the prosecution would have evidence of drug analysis available.
16. The question of DNA evidence will probably not have been resolved and that might not be resolved for 12 months. It seems to me that evidence is not critical to the question of committal, it might well be for the trial.
17. It does not seem to me that the drug cases and document cases could ultimately be heard together. It may be that the document case could be resolved in the Magistrates' Court and not be dependent on the drug case.
18. If the applicant were to be committed on the receiving charges, he will be dealt with for breach of the suspended sentence.
19. I am not satisfied that the question of delay in this case does amount to exceptional circumstances. The circumstances of the applicant's family are unfortunate but not of themselves or in connection with delay exceptional. In that respect, the most recent material as to the medical condition of the applicant's wife is dated 12 August.
20. He is on a suspended sentence. He has breached one set of bail. The material found at his home included a false licence and a false handgun licence. There was material relating to a passport and a birth certificate although in the name of a female. One of the licences found had been stolen in December 2011 and cannot possibly have anything to do with the earlier offending.
21. I am satisfied that the applicant is an unacceptable risk of answering his bail even subject to the offering of a surety and/or re-offending and the application is dismissed.

APPEARANCES: For the Crown: Mr M Rochford SC, counsel. Office of Public Prosecutions. For the accused Redenbach: Mr K Oldis, counsel. Valos Black & Associates, solicitors.