

ANTIGUA AND BARBUDA

IN THE COURT OF APPEAL

HCRAP 2008/022

BETWEEN:

CAREEM BEDMINISTER

Appellant

and

THE QUEEN

Respondent

Before:

The Hon. Mde. Ola Mae Edwards

Justice of Appeal

Appearances:

Mr. Steadroy C.O. Benjamin for the Appellant

The Director of Public Prosecutions, Mr. Anthony Armstrong for the Respondent

2009: January 20.

REASONS FOR DECISION

[1] **EDWARDS, J.A.:** This is an application for bail pending appeal which was filed on 27th November 2008 against the appellant's conviction on 6th March 2008 for Attempted Murder and sentence of seven (7) years imprisonment on 19th March 2008.

[2] Having read and considered the notice of application and affidavit in support filed on 27th November 2008, the submissions of Counsel for the applicant filed on 2nd January 2009 and supporting authorities, and the notice of the Director of Public Prosecutions opposing the application for bail pending the determination of the

appeal and the DPP's submissions in reply filed on 9th January 2009, I am of the following view:

- (a) The case of **R v Watton** (1978) 68 Cr. App Rep 293, [1979] Crim L R 246 suggests that bail should be granted pending appeal only in exceptional circumstances; and the critical question for the court against the background of the seriousness of the offence for which the applicant has been convicted is whether the circumstances relied are exceptional circumstances which justify the grant of bail.

- (b) I am not persuaded that the fact that the appeal process is likely to be protracted is an exceptional circumstance since the period of seven (7) years imprisonment from the 9th March 2008 has many years to run; and this is not the type of case where a factor in favour of bail pending appeal is that the unavailability of the transcript of the evidence is likely to result in the sentence being served before the appeal is heard if bail is not granted. The whole sentence taking into account the one third remission is not likely to be served before the appeal is disposed of. The lapse of time pending the likely disposal of this appeal while a factor, is therefore not a very compelling one in favour of granting bail.

- (c) Regarding the merits of the appeal, the case **R v Davis** 62 Cr App. R 164 is no authority for the proposition that a material procedural irregularity occurred where the trial judge without consultation with defense counsel or counsel for the prosecution permitted the jury at their request to have the indictment upon which the appellant was arraigned and tried given to them.

[3] For the foregoing reasons the application for bail pending the disposal of the appeal is dismissed.

Ola Mae Edwards
Justice of Appeal