

ROYAL COURT  
(Samedi Division)

24.

3rd February, 1995

Before: F.C. Hamon, Esq., Commissioner,  
and Jurats Blampied and Hamon

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The Attorney General

- v -

Gary McNally

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Application for renewal of bail, following a not guilty plea to:

1 count of possessing a controlled drug (Methylenedioxymethylamphetamine Hydrochloride) with intent to supply it to another, contrary to Article 6(2) of the Misuse of Drugs (Jersey) Law, 1978 (count 1 of the indictment);

and following guilty pleas to:

1 count of obstructing a police officer, contrary to Article 17(5) of the said Law (count 2); and

1 count of possessing a controlled drug (cannabis resin), contrary to Article 6(1) of the said Law.

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The Solicitor General.  
Advocate R.G. Morris for the Applicant.

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JUDGMENT

THE COMMISSIONER: We are faced with difficulties in this case. We have carefully studied the cases of A.G. -v- Hakes (18th November, 1994) Jersey Unreported and A.G. -v- Heuzé (7th October, 1994) Jersey Unreported. In Heuzé we said this:

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*"....there are certain matters which we are bound to take into consideration in an application of this nature and these matters are the nature of the accusation made against the accused; the evidence in support of that accusation; and the severity of the punishment which conviction will entail".*

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But the criticism delivered by this Court in Hakes is in point in this case. On 26th August, 1994, McNally was remanded in custody for 17 weeks. On 20th December, 1994, he was granted bail, apparently from custody, and that bail was not opposed.

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There was apparently some doubt at some time that the first count - and the first count is of intent to supply a Class A drug - would be proceeded with.

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We find the evidence in the case disturbing. There are, in our view, grounds in favour of the prosecution case. But nevertheless evidence will need to be examined in Court and it does not concern us here except in outline.

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If the accused is found guilty he will have to face a long period of imprisonment, but he is in work, which he started on 10th January, 1995; he has accommodation; and he has regularly answered to his bail in the past.

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If this had been an application for bail from prison we might have taken a different view. We cannot see what deep problems the prosecution has faced in this case in relation to the lapse of time and if there have been deep problems they have not been explained to us.

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We regard the case as exceptional and because it is exceptional we are prepared to grant bail to the accused but on his recognizance that he will appear before this Court whenever required to do so.

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Mr. Morris, there are conditions. The conditions are that he will surrender his passport if he has one to the police; that he will report to the police three times a week, commencing tomorrow; that he will notify the police of his current address and will undertake to notify them immediately of any change of address; and his bail terms are increased from £200 to £400.

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Therefore, McNally, you are bound on those recognizances to appear before the Inferior Number for your trial on 15th and 16th March, 1995.

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Authorities

A.G. -v- Heuzé (7th October, 1994) Jersey Unreported.

A.G. -v- Hakes (18th November, 1994) Jersey Unreported.