

ROYAL COURT
(Samedi Division)

132.

19th July, 1996

Before: F.C. Hamon, Esq., Deputy Bailiff, and
Jurats Gruchy and Jones.

The Attorney General

- v -

Ralph Edward Queally

Application for review of refusal of bail in the Magistrate's Court on 16th July, 1996.

- On 3rd June, 1996, the applicant reserved his plea to:
4 counts of unlawful sexual intercourse;
1 count of taking an indecent photograph; and
1 count of taking an indecent video tape.
A bail application was refused and the applicant was remanded in custody.
 - On 3rd July, 1996, the applicant was remanded in custody with no bail option.
 - On 11th July, 1996, a witness was heard on oath and a *prima facie* case found. The applicant was remanded in custody to 6th August, 1996, for preparation of reports and transcript.
 - On 16th July, 1996, a bail application was refused.
- Application refused.

A.J. Olsen, Esq., Crown Advocate.
Advocate S.E. Fitz for the Applicant.

JUDGMENT

THE DEPUTY BAILIFF: This is an application for bail following a decision of Judge Tricot to refuse bail on 16th July, 1996.

5 Queally is charged with unlawful sexual intercourse with a fifteen year old girl on several occasions between 20th January and 19th April of this year. The offences are formulated in four counts; there are then two counts of taking indecent photographs of the girl and of taking an indecent video tape. He is 34 years of age.

10 There are further allegations - as Miss Fitz has told us they are strongly denied - that further offences occurred over the weekend of 1st and 2nd June. DNA samples have been sent for analysis and results are awaited and the outcome will no doubt
15 decide whether further charges will be brought.

We have heard argument from Miss Fitz that the applicant has a 14 year old son by a previous marriage whose birthday is on 21st July and who was promised a visit to Jersey as a birthday treat.
20 Queally has married again and we understand that his wife works at the General Hospital.

25 Reading from the transcript of the hearing before Judge Tricot - the evidence of P.C. Joshua - we note that Queally was released from custody while charges were being prepared and was apparently bound over to have no further contact with this child. On the weekend of 1st and 2nd June - and we do not know what the outcome of the tests is going to be - P.C. Joshua told Judge Tricot that he found Queally and the girl at Queally's home
30 address.

35 What in fact Relief Magistrate Tricot said at the end of the application before him is this: *"Well, thanks very much. Well these are serious offences and in view of what's happened since the arrest and release of the accused, he's not really tied to the Island that much, there is always a possibility of absconding"*.

40 Miss Fitz, who has said everything that could be said, I think, on behalf of the applicant has pointed out to us that Queally does have ties with the Island and they are strong ties and perhaps the question of his absconding on the basis that he has no ties was not right. Let us ignore that remark. We are perfectly satisfied from what the Magistrate said that these are serious offences; we agree entirely with that. Following the
45 Representation of Makarios [1978] JJ 215, we have no hesitation in deciding that the seriousness of these offences is enough and we do not feel that we are bound in any way by precedents of other applications - the case of A.G. -v- Capuano (28th June, 1996)

Jersey Unreported is the one that particularly springs to mind; we do not fully understand why Capuano was granted bail, but bail he was granted. We do not think that it binds us in this case. We will not be following Capuano and the bail application is refused.

Authorities

Representation of Makarios [1978] JJ 215.

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

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

A.G. -v- Heys (21st June, 1996) Jersey Unreported.

A.G. -v- Capuano (28th June, 1996) Jersey Unreported.