

ROYAL COURT
(Samedi Division)

223.

11th November, 1994

Before: F.C. Hamon, Esq., Commissioner,
and Jurats Gruchy and Herbert

The Attorney General

- v -

Simon Paul de la Haye

Application for review of Magistrate's refusal of bail.

A.R. Binnington, Esq., Crown Advocate.
Advocate J.C. Gollop for the Applicant.

JUDGMENT

THE COMMISSIONER: This is an application for bail by Simon de la Haye. We would say at this point, by way of background, that Mr. de la Haye is a young man. He is 24 years of age. He apparently has a close family. He was employed, at the time of the offence, by an electrical supply company and he did then have a relationship with his fiancée which has since been broken off, we were told, as a result of the matters of which complaints are made against him.

On 6th September of this year, Mr. de la Haye was charged with having committed a grave and criminal assault on a female person on 3rd September, 1994. The only evidence at present of his having committed that offence is that he admits to having been in the vicinity at the time the offence was committed in a car park. He was picked out by the complainant at an identification parade.

There have in fact been three applications for bail but we are dealing only with the third application today.

Certain materials have been sent for forensic examination to the Home Office laboratory at Chepstow and those forensic examinations are continuing.

As was said at the Police Court by the prosecution (and I quote): "Early results were hopeful but there is an element of delay which is as unwelcome to the prosecution as it is to anyone else".

Mr. de la Haye has been held in prison, in custody, since the time that he was charged, but on the third application for bail, when matters were outlined in some detail to him, the learned Assistant Magistrate said this, at the conclusion of the bail application: "Potentially a very serious case here and it has been well held in cases of rape or attempted rape that bail shouldn't be granted and therefore I'm remanding him in custody on a 28 day remand".

Whatever else Mr. de la Haye is charged with, he is not charged, at the moment, with rape, attempted rape, or any other sexual offence.

We well accept the fact - as Mr. Binnington has told us - that, at the hearing before the learned Magistrate, the seriousness of the assault with which he has been charged was well outlined. However, because of the remarks of the learned Assistant Magistrate we have no hesitation in saying that we are going to review the learned Assistant Magistrate's decision. On that basis we have no hesitation in saying - despite the record of Mr. de la Haye (there is one offence of committing a grave and criminal assault on 17th August, 1993, but the circumstances of that assault on his fiancée were then explained to us, satisfactorily, by Mr. Gollop) - that it is quite wrong that the accused should remain in La Moye while these very apparently long applications to the Home Office are being made and forensic examinations are carrying on. He has already been some 3 months in prison and it could be several more months before matters are finalised.

We cannot see, at the moment, why the prosecution for grave and criminal assault could not be proceeded with. It seems to us that if, as has been explained to us, there was no ejaculation, there is no question of semen being sought; the forensic tests are being carried out on materials of clothing - fibre material. That may very well lead to further charges; it may merely add an extra ingredient to the charge of grave and criminal assault.

In the circumstances - and they are very unusual circumstances - we are prepared to grant bail to Mr. de la Haye on these terms: bail will be set at £500; you will report to the police once a week at a time convenient to them. We are not going to impose a curfew, but we would say this: it is a term of your bail that you are not to approach the victim, or any other potential witness in this case in any way whatsoever, and it may well be that you will take our advice and keep away from public

houses and night clubs until such time as this matter is more formalised. This does not mean that, if the forensic evidence becomes available quite shortly, a further application by the Crown cannot be made. As matters stand at the moment, however, we are prepared to grant you bail on those terms and we do so.

No authorities.

5