

**THE EASTERN CARIBBEAN SUPREME COURT
SAINT LUCIA**

**IN THE HIGH COURT OF JUSTICE
(CRIMINAL DIVISION)**

CASE NO. SLUMCV2026/0055

BETWEEN:

**THE HONOURABLE ATTORNEY GENERAL
For and on Behalf of Martinique French Republic
“The Requesting Country”**

Applicant/ Respondent

and

PRINCE NELSON

Respondent/Applicant

Before:

The Hon. Mde. V. Georgis Taylor-Alexander

High Court Judge

Appearances:

Mr. Alberton Richelieu and Mr. Lorne Theophilus of Counsel for
the Respondent/Applicant

Mr. Arthur Compass of Counsel for the Attorney General

The Respondent/Applicant present

2026: July: 10

**RULING ON PRELIMINARY OBJECTION
CONTESTING THE JURISDICTION OF
THE HIGH COURT**

- [1] **TAYLOR-ALEXANDER J:** This ruling concerns a preliminary objection raised by the Honourable Attorney General, who contends that the High Court of Saint Lucia lacks

jurisdiction to review the learned magistrate's refusal of provisional release in extradition proceedings. The objection was taken *in limine*, before consideration of the substantive grounds of challenge. I delivered an oral decision upholding the preliminary objection. The following are my reasons for doing so.

Background

- [2] On 13th February 2026, the applicant was arrested pursuant to a provisional warrant issued under the *Extradition Act*, Cap. 2.10, ("The Act") and the agreement on Extradition (Saint Lucia and the French Republic) Act Cap 19.23 ("The Agreement") following a request from the Court of Appeal of the French Republic. On 31st March 2026, the learned magistrate refused the provisional release of the applicant, citing absence of exceptional circumstances and risk of flight. On 20th April 2026, the applicant filed an application at the High Court under Rule 5.1 of the *Bail Rules 2023*, seeking to review of the decision of the magistrate.
- [3] The grounds of challenge are set out at paragraphs (1)–(9) of his application and supported by an affidavit sworn to by the applicant and filed on the same date.
- [4] At the hearing of the application, the Honourable Attorney General, by submissions filed on 30th April 2026, raised by preliminary objection that the High Court lacks jurisdiction to review the magistrate's decision denying provisional release. He argued that extradition proceedings are *sui generis* and the refusal to grant provisional release cannot be challenged under the Bail Rules, which by its interpretation and application govern bail in criminal proceedings.

The Attorney General's Submissions on the Jurisdiction Point

- [5] The Attorney General submits that the Bail Rules is a procedural instrument whose scope is limited by their own provisions. Rule 2 of the Bail Rules defines the offences and proceedings to which the rules apply, while Rule 12 ties their scope to criminal jurisdiction.

- [6] He submits that extradition proceedings are governed by a distinct statutory and treaty regime. In support, he relies on the decision in ***Tasker v United States of America***¹, which confirms that extradition proceedings are *sui generis*. Thus, by application of the maxim *generalia specialibus non derogant*, the general bail regime yields to the specific statutory framework of extradition and cannot be subsumed under the Criminal Procedure Rules or the Criminal Code.
- [7] He further submits that neither the Act nor the Agreement provides any statutory or treaty mechanism for appellate review by the High Court of a pre-committal decision under Section 13 of the Act, read together with Article 14.4 of the Agreement. While Section 19 of the Act confers rights of appeal, these are confined to committal orders under Section 16 and discharge orders under Section 17. The present application by Prince Nelson was made pre-committal, and therefore no statutory warrant arises for appellate intervention by this Court into the magistrate's provisional release decision.
- [8] The Attorney General acknowledges that the High Court retains an inherent jurisdiction, as recognised by the Privy Council in ***Knowles v Superintendent of HM Prisons Fox Hill***², to entertain applications for bail in extradition proceedings. However, that jurisdiction is one of original exercise, to receive and decide a fresh application and not to review or overturn the discretionary decision of a magistrate.
- [9] The present application, both in form and substance, is framed as a review of the magistrate's decision pursuant to Rule 5(1) of the Bail Rules 2023. It therefore seeks to invoke the High Court's appellate jurisdiction under the Bail Rules, rather than presenting a fresh application under its inherent jurisdiction. Consequently, the High Court lacks jurisdiction to entertain it in the manner sought.

The Applicant's Response on the Jurisdiction Point

- [10] The applicant submits that the High Court possesses an inherent jurisdiction to review a decision of a magistrate in relation to bail. While no authority was cited to support this submission, the applicant emphasises that such supervisory power is a long-standing

¹ [2023] CCJ 11 (AJ) BB

² [2005] UKPC 17

feature of the High Court's function. In addition, he submits that Section 4(a) of the Bail Rules expressly empowers the High Court to review bail decisions made by a magistrate.

- [11] The applicant further contends that the question of whether bail may be granted in extradition matters is well settled. Numerous cases from Saint Lucia and across the wider Caribbean demonstrate that applications for bail in extradition proceedings have been successfully made and granted. The Act itself recognises that apprehension and detention pursuant to a warrant is not automatic. Specifically, Section 13(2) of the Extradition Act provides that a fugitive need not be detained in custody if:

- (a) detention is not necessary to secure his or her attendance for the purposes of the Act; or
- (b) detention is not required in the public interest or for the protection or safety of the public, having regard to the circumstances, including any substantial likelihood that the fugitive, if released, might commit a criminal offence or interfere with the administration of justice.

- [12] The applicant also submits that the Crown has failed to establish that extradition proceedings are sui generis. On the contrary, Section 14 of the Act recognises that extradition applications are grounded in evidence of an extradition crime.

- [13] He submits that there is nothing in the Bail Rules that excludes extradition matters from review by the High Court; the Rules speak simply to the review of a magistrate's decision, which necessarily includes bail decisions made under the Act and the Agreement. The applicant submits that once this position is accepted, it follows that the factors a magistrate must consider in granting or refusing bail are those enshrined in the Bail Rules.

The Narrow Issue

- [14] The High Court, as a superior court of general jurisdiction, possesses an inherent jurisdiction to grant bail. This inherent right has been long established and confirmed in

authorities such as **R v Spilbury**³ and **Knowles v The Super Intendant of Prisons**⁴. Importantly, this principle is not in dispute between the parties.

- [15] By contrast, statutory courts such as the Magistrates' Court derive their jurisdiction solely from statute. Their authority must be established on the face of the proceedings or otherwise. In the present matter, the magistrate's power to grant or deny provisional release derives specifically from Section 13 of the Act and Article 14(4) of the Agreement (Saint Lucia–French Republic). This too is common ground between the parties.
- [16] The applicant asserts that his constitutional right to bail extends to provisional release in extradition proceedings. That proposition is accepted. The narrower submission of the Attorney General, however, is that while Section 13(2) of the Extradition Act empowers a magistrate to grant provisional release, the Act does not confer appellate jurisdiction upon the High Court to review such a decision. Accordingly, the issue for determination is whether the Bail Rules 2023 confer appellate jurisdiction on this court, in the context of extradition proceedings, to review a magistrate's refusal of provisional release.

Relevant Law

- [17] The following provisions are engaged on the narrow issue, and in so far as they are material, they provide:

(i) **Extradition Act, Cap. 2:10, s.13 and 19:**

"13 (1) Subject to subsection (2) but notwithstanding any other Act, a fugitive who is apprehended on a warrant issued under section 9 shall be detained in custody pending the determination of his or her case under section 12.

(2) The Fugitive need not be detained in custody if he or she establishes to the satisfaction of a magistrate that having regard in addition to any other relevant factors to the length of time the fugitive has resided in Saint Lucia-

- (a) his or her detention is not necessary to ensure his or her personal attendance whenever it is required for the purposes of this act; and*
- (b) his or her detention is not necessary in the public interest or for the protection or safety of the public having regard to all the*

³ [1898] 2 QB 615

⁴ [2005] 1 WLR 2546

circumstances including any substantial likelihood that he or she might if released from custody commit a criminal offence or an interference with the administration of justice. “

(ii) Appeals to the High Court s.19

*“(1) With leave of the High Court an appeal lies to that court **on a question of law only** from-*

(a) The committal to prison of a fugitive under section 16; or

(b) The discharge of a fugitive under section 17.”

(All emphasis mine)

(iii) Agreement on Extradition (Saint Lucia–French Republic), Cap. 19.27, Art. 14(4):

“Provisional arrest shall terminate if the requested party has not received the request for extradition and the document specified in Article 9 within 60 days of the person's arrest. However, the person sought may be provisionally released at any time, but the Requested Party shall take any measures which it considers necessary to prevent the escape of the person sought.”

(iv) Criminal Code Cap 3.01 Section 570A (1) and (2) and 600(1)

570A. Rules by Chief Justice

(1) The Chief Justice may make rules for the practice and procedure of the Court in criminal matters.

(2) Rules made under this section shall be subject to negative resolution of Parliament.

600(1) Powers of the High Court in relation to bail.

(1) Despite any power of the High Court to admit or direct the admission of persons to bail,

(a) the High Court may grant bail where a person has been committed in custody to the High Court for trial or sentence or has appealed to the High Court against conviction or sentence; or

(b) the High Court may grant bail or vary the conditions of bail where the magistrate withholds bail or imposes conditions in granting bail.

- [18] The Supreme Court Act, s.17 empowers the Chief Justice to make rules regulating practice and procedure of the Court of Appeal and the High Court, in relation to their respective jurisdiction and powers. The Bail rules were seemingly promulgated to this provision and section 570A (1)
- [19] The Bail Rules 2023, s.2(c): defines bail to include bail “granted under any enactment for the time being in force.” Rule 5.1: permits applications to review a magistrate’s bail decision. Rule 12: Provides that save and accept where the rules conflict with the Criminal Procedure Rules Cap 3.01 in force in Saint Lucia these rules are deemed to be incorporated into the Criminal Procedure Rules Cap 3.01.

Comparative Guidance

- [20] In the UK the High Court is given statutory authority to review, grant or vary bail. This authority is under the CJA S22 (1A) and where a magistrates' court withholds bail in extradition proceedings or imposes conditions in granting bail in extradition proceedings, the High Court may grant bail or vary the conditions. There is also a right granted to the Crown to appeal a decision from the Magistrate's Court to the High Court to the grant of bail in extradition cases under the Bail Amendment Act 1993 S1(1A) and (3).
- [21] **In the matter of an application for bail for Norris Nembhard⁵**, from the High Court of Jamaica offers guidance on how the Jamaica High Court treated with a similar issue on whether the High Court of Jamaica had jurisdiction to review a decision of a magistrate refusing bail under the Extradition Act of Jamaica. Brooks J reasoned as follows:

“the nature of extradition proceedings is such that the detainee is not charged with an offence committed in this country, but rather an offence against the law of the state requesting extradition. No such distinction however is recognized in the Bail Act. It may be noted by way of contrast that although by Section 4(1) of the United Kingdom Bail Act 1976, persons affected by proceedings under that country's Extradition Act are specifically excluded from the right to bail, no such exemption appears in our own Bail Act. Indeed, our Extradition Act requires the court of committal to “hear the case in the

⁵ 2004HCV/1198

same manner as nearly may be as if he were sitting as an examining justice and as if (the person arrested) were before him charged with an indictable offence committed within his jurisdiction."

The following provisions of the Bail Act 2000 of Jamaica was relevant in the judge's finding:-

Section 8(2) of the Bail Act:

"For the purposes of proceedings under this section, a court of committal shall have, as nearly as may be, the like jurisdiction and powers (including power to remand in custody or to release on bail) as it would have if it were sitting as an examining justice and the person arrested were charged with an indictable offence committed within its jurisdiction."

Section 11(1) provides for the power of judge in chambers, it provides:-

"Where a Resident Magistrate's Court refuses bail in criminal proceedings or imposes conditions on the grant of bail in criminal proceedings, the Judge in Chambers may grant or refuse bail or vary the conditions."

Discussion

- [22] In Saint Lucia, jurisdiction in extradition matters under the Act and the Agreement is exercised almost exclusively by the magistrate. The authority to grant provisional release is conferred expressly by Section 13 of the Act and Article 14(4) of the Agreement. These provisions establish that the determination of whether a fugitive may be provisionally released is a matter for the magistrate, subject to the statutory and treaty framework governing extradition.
- [23] Section 19 of the Act provides a limited right of appeal to the High Court from decisions of a magistrate. That right is tightly circumscribed, both as to the nature of the orders that may be challenged and the grounds upon which such challenges may be brought. It is confined to questions of law arising from either the committal of a fugitive under Section 16 or the discharge of a fugitive under Section 17, and only with leave of the High Court. The statutory scheme therefore restricts appellate intervention to these two categories of orders, and only where a point of law properly arises.

- [24] The import of the Bail Rules is likewise circumscribed by Section 17 of the Supreme Court Act and Section 570A of the Criminal Code. The appellate mandate given to the High Court in bail applications is conferred specifically by Section 600(1)(a) of the Criminal Code, and it is from these provisions that the High Court's power to review a decision of a magistrate on bail in criminal proceedings derives. The Bail Rules, promulgated under the authority of the Chief Justice, operate within this statutory framework and cannot extend beyond it.
- [25] Neither the Act, nor the Agreement, nor any other enactment has empowered this court with authority to review a magistrate's decision on provisional release in extradition proceedings. The Bail Rules, as a procedural instrument, cannot of themselves confer jurisdiction where none exists in the governing statute or treaty. To hold otherwise would be to allow subsidiary legislation to enlarge substantive jurisdiction contrary to the principle that rules of procedure cannot override or expand statutory limits.
- [26] By contrast, in jurisdictions such as the UK, Parliament has expressly vested appellate powers in the High Court to review bail decisions in extradition proceedings under its Criminal Justice Act and Bail Amendment Act as stated earlier. Saint Lucia's legislation contains no such provision.
- [27] While Section 2 of the Bail Rules defines bail broadly as bail "granted under any enactment," I accept the Attorney General's submission that Rule 12 incorporates the Bail Rules into the Criminal Procedure Rules, thereby situating them within the procedural framework anticipated by Section 17 of the Supreme Court Act and Section 600(1) of the Criminal Code. The Bail Rules therefore operate within that statutory scope and cannot enlarge the substantive jurisdiction of the High Court beyond what the Supreme Court Act itself and the Criminal Code permits.
- [28] I also accept the submission of the Attorney General that in jurisdictions where the High Court has the power to review bail or release in extradition cases, such authority is expressly granted or implied by statute. In Saint Lucia release of a person subject to extradition proceedings remain subject to the framework of the Act and Agreement. For this reason I am satisfied that the High Court's authority to review a decision of a

magistrate on bail cannot be extended by implication beyond its legislative grant of the Act or the Agreement.

[29] I therefore find that while the High Court retains inherent jurisdiction to entertain a fresh application for bail in extradition proceedings, it does not possess appellate jurisdiction to review a magistrate's refusal of provisional release under Section 13 of the Act. The Bail Rules 2023, being subsidiary legislation, cannot extend the High Court's jurisdiction into extradition matters absent an express statutory grant.

[30] The preliminary objection is accordingly upheld, and the application filed on 20th April 2026 is dismissed.

Justice V. Georgis Taylor-Alexander
High Court Judge



BY THE COURT

REGISTRAR