

SPECIAL IMMIGRATION APPEAL COMMISSION
Field House,
Breams Buildings
London
EC4A 1WR

Tuesday 20th December 2005

BEFORE:

The Hon Mr Justice Ouseley
(President)
Mr C R Smith
Mr S L Batiste

In the matter of application for bail

BETWEEN:

BB
Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT
Respondents

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MR R SINGH (Instructed by Messrs Fisher Meredith) appeared
on behalf of the Appellant

MR J EADIE (instructed by the Treasury Solicitor) appeared
on behalf of the Respondents.

MR M CHAMBERLAIN (instructed by the Treasury Solicitor)
appeared as Special Advocate.

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J U D G M E N T
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THE PRESIDENT: BB is an Algerian who arrived in the United Kingdom in 1995 with six months leave. He had left Algeria in 1992. Contact with him was lost until he was arrested for something or other in 1999, whereupon he claimed political asylum, a claim as yet unresolved. He was arrested in September 2003 on Terrorism Act and other charges. The Terrorism Act charges were later withdrawn. He pleaded guilty to false passport charges, was sentenced to three months' imprisonment on those, and was released on the 13th or 14th July 2004 on temporary admission on the expiry of his sentence. He was on weekly and then monthly reporting until his arrest following the notice of intention to deport on 30th September 2003. Despite the other arrests, he maintained the limited reporting required and did not go into hiding. He was not subject to any Part IV ATCSA proceedings; nor was he subject to any control order. This may be a factor which may be of some significance in relation to certain matters alleged against him. He has a wife and three children aged 3, 2 and about 6 months. His wife is Algerian. She has no asylum claim in her own right because it has been rejected and her appeal rights have been ended.

As to the risk of absconding, the immigration history, and to a limited extent the family ties, might have persuaded us that the applicant would not abscond, although the risks are clearly changing. The applicant clearly has a case to argue before SIAC on both national security and safety on return grounds. There is no previous SIAC judgment against him. But it is not necessary for us to express a concluded view on that risk or on all the matters which give rise to concern in relation to that, some of which are in closed, in view of the conclusion we have reached on other matters. Nor is it necessary to express a concluded view on the prospect that his views and capabilities might lead him to abscond in order to carry them on.

It would be inappropriate to go into the national security case which has been canvassed in some detail before us in closed. It is not necessary for us to go further in relation to the abscond risk or further into the national security case, because we are satisfied that he would pose a significant national security risk on the material that we have seen and that the strictest of bail terms would still leave too great a risk to be run. If the allegations which are made against him are correct, and we do not express a concluded view at all in relation to those matters, we are satisfied that there is a very real risk that activities would continue and that those activities would pose a risk of some significance to national security. While detention is lawfully available and is more effective than bail conditions can be, the national security interest should be freed from the significant risk which he would pose to it.

Much of the material relevant to that judgment is in closed and it is plain from what I have said that we have given

considerable weight to the closed material which has caused us to conclude that it is not a case in which bail should be granted. We do not propose a closed judgment. It is appropriate simply to say that, without accepting all of Mr Eadie's submissions and recognising that there is force and at times considerable force in some of the points made by the Special Advocate which will need further consideration, we have reached the view that the submissions of Mr Eadie amply persuaded us that this was not a case for bail at all.

Bail is refused.
