

Police v Thomas Bryan LABONNE

2026 BMB 44

BEFORE THE DISTRICT COURT OF BLACK RIVER

In the matter of:

P/CN 139/2026

Police

V

Thomas Bryan LABONNE

RULING

1. The applicant is provisionally charged with the offence of money laundering under sections 36 and 38 of the Financial Crime Commission Act 2023.
2. The applicant has, through his legal representative, made a motion for the variation of the prohibition order to allow him to travel to China through Dubai between the 12th June 2026 – 19th June 2026 for business purposes.
3. The respondent has raised an objection and the enquiry officer Inspector Moheswa was called upon to depose in relation to the risk of absconding that the FCC have.
4. The argument was conducted by counsel for the FCC and submissions were offered at the close of the arguments by both counsel.
5. The court has considered the evidence elicited by the enquiry officer as well as the testimony of the accused, their respective answers in cross-examination as well as the submissions of counsel for each side.

The law

6. The fundamental right of freedom of movement, as guaranteed by section 15 of the Constitution, is not absolute and can be restricted¹. A prohibition order is one of the restrictions to this right and it remains in force until the disposal of the charge against the defendant/detainee².
7. A person against whom a prohibition order has been filed can apply to Court pursuant to section 16 of the Bail Act to vary the order.
8. The Court may vary the prohibition order, if it is satisfied that it is necessary to do so, to avoid loss or prejudice to the Applicant; to avoid damage or loss to the Applicant's property; because of the health of the Applicant or his next of kin; in such other cases as the Court thinks fit.
9. In determining whether it is necessary to vary a prohibition order, the landmark authority of **Peerthum v District Magistrate of Riviere du Rempart 2009 SCJ 283** succinctly lays down the test in law as follows:
"a balancing exercise has to be carried between the responsibility befalling the prosecution authorities and the convenience of the applicant in accompanying his daughter for further studies. It is clear that the balance tips heavily, in the circumstances, in favour of the prosecution authorities, in the absence of any special reason why there is an almost absolute necessity for applicant to leave the country. Given the seriousness of the charges laid against him, the applicant may choose to find ways and means never to return to Mauritius to face those charges."
10. In determining the merits of this application, the court needs to consider whether, from the evidence ushered, the court is satisfied that a variation order is necessary on account of an 'almost' absolute necessity for the applicant to leave the country. The motion for the variation should be assessed in conjunction with the seriousness of the charge as well as the reasonableness of the objection(s) raised by the police.

The case for the Respondent

11. The enquiry officer stated that the applicant is under the present provisional charge since 3rd February 2026 and that he had been bailed out since the 23rd February 2026.

¹ Maingard v The Commissioner of Police 1988 MR 57

² Section 14(2)(a) of the Bail Act

12. The EO related that on the 2nd February 2026, the applicant was intercepted by ADSU officers when he was entering the metro station of Coromandel in a 4x4 truck of brand Ford Raptor and bearing registration number BTL 1991. Upon searching the vehicle, the ADSU officers secured under the driver's seat a plastic bag containing a sum of Rs884,500 in different notes in Mauritian currency. There was another bag containing six pieces of jewellery.
13. Since police suspected those articles to be of tainted origin, the articles were secured together with the vehicle and an enquiry was started. The file was subsequently forwarded to the FCC for enquiry.
14. The jewelleries were estimated at Rs3,100,000 by the assay office and an enquiry has started in relation to the properties of the applicant.
15. In his defence statement, the EO revealed that the applicant mentioned that he reared animals (pigs) and helped his parents in a family snack as a living. However, in support of the present motion, the applicant stated that he had the intention to import fabric and men clothing from China for his business.
16. The EO expatiated on the seriousness of the offence with which the applicant is likely to be prosecuted and mentioned that such case would very likely be tried before the Financial Crime Division of the Intermediate Court and that, in case of a conviction, the applicant can be meted with a custodial sentence. Hence the police believe that the applicant can use the opportunity of this travel to escape the jurisdiction and not come back.
17. Furthermore, police checked with the agency Khacy Travel Services which issued provisional air tickets and police were informed that those provisional bookings had lapsed in the absence of any payment. According to the EO, no other booking has been made by the applicant.
18. In relation to the status of enquiry, the EO stated that verifications are being carried out and further statements have to be recorded from other persons and the applicant.
19. In cross-examination, the following facts and circumstances were elicited from the enquiry officer as follows:
 - a. that the applicant cooperated with the police and the FCC;
 - b. that applicant mentioned he organises live concerts;
 - c. that applicant mentioned in his statement that the jewelleries were remitted to him by a cousin who has passed away;
 - d. that applicant has only a Mauritian passport;
 - e. that applicant is married and all his family members are in Mauritius;

- f. that he has no relative in China;
- g. that applicant produced a BRN on his name issued in year 2023;
- h. that one of the activities mentioned in the BRN is 'import and export';
- i. that applicant has always attended court and the FCC whenever required;
- j. that applicant has no previous conviction for breach of condition of release;
- k. that reservation for an air ticket can be made at any time prior to departure;
- l. that the trial court will decide on the appropriate sentence and that a fine is possible for this offence.

The case for the applicant

20. The applicant stated under oath that he has an animal farm where he rears pigs and that he has a shop where he sells men clothing. He expatiated on his family ties and mentioned that he had two children (aged 2 and 7 respectively). He stated that whatever he owns is in Mauritius only and that he has no ties in China. He also mentioned that he had not made any payment for the booking yet because he was waiting for the decision of the prosecution.
21. In relation to the motion to travel to China, the applicant mentioned that he needs to be there to inspect the quality of the fabric and to check the size of clothing. He stated that he needs to go because of his livelihood and that he has no one else to go on his behalf.
22. In cross-examination, the following issues were raised with the applicant, as follows:
 - a. that the applicant does not have any proof that he has a shop;
 - b. that as at now, the applicant has no booking for the 12th June – 19th June 2026;
 - c. the applicant disagreed that he could send another person to do the quality check in China and that through a video call he can give instructions to that other person in China;
 - d. the applicant disagreed that his wife who also owns a shop could go on his behalf on the ground that his wife was concerned with women clothing only;
 - e. the applicant agreed that he works in the field of animal rearing and also in a snack;
 - f. the applicant agreed that he can live on his other businesses although there are some difficulties with the business of animal rearing;
 - g. that the document produced in support of the applicant's case does not mention that the applicant absolutely needs to travel;

h. that the decision to travel was a personal decision.

Submissions

23. Counsel for the defence submitted that the risk of absconding has not been substantiated and that the applicant should be allowed to travel for his livelihood whereas counsel for the FCC submitted that the applicant has failed to establish that he has an almost absolute necessity to travel.

Analysis

24. Having set out the test in law, it is clear that it is for the applicant to satisfy the court that it is necessary for the court to vary the prohibition order. Then the court will carry out the balancing exercise in assessing whether the ground of objection raised by the respondent has been substantiated having regard to the necessity of the applicant to travel.

25. As per the applicant's case, the reason behind the travel is one of 'business' and defence counsel submitted that the applicant should be allowed to travel for his livelihood. Under section 16 of the Bail Act, 'to avoid loss or prejudice to the applicant' is one of the statutory grounds on which a prohibition order can be successfully varied by a court.

26. The court has not been impressed by the applicant's case altogether. Although defence counsel stressed on the fact that the court should vary the prohibition order for the applicant's livelihood, this line of submissions sits uncomfortably with the evidence on record.

27. Evidence has been elicited that the applicant works in a family snack, works in the business of animal rearing, and has a shop in which he sells men clothing. The onus of proving that the purpose of the travel is to 'avoid loss or prejudice' falls squarely upon the applicant. He has not shown how important the trip to China is to his business and consequently, to his livelihood. No evidence has been placed on record of the potential loss or prejudice that he would suffer if he was not allowed to travel. Furthermore, the court is not convinced, on a balance of probabilities, that the only way in which the applicant can check the quality of the fabric to be imported from China and check the size of the clothes, is for him only to travel.

28. It is true that the case of **Peerthum (supra)** does not define what 'almost absolute necessity' means. However, common sense is sufficient authority to hold that almost absolute necessity

requires a higher threshold to be met than a mere necessity. The applicant has not shown how it is absolutely necessary for him to travel.

29. Furthermore, the argument that applicant has travelled in the past is neither here nor there as no evidence was established that he travelled whilst being provisionally charged and whilst being on a prohibition order.

30. In carrying out the balancing exercise, I find that the balance to tilt in favour of the respondent's case as the applicant has not even been able to show a real necessity to travel.

31. The motion for variation of the prohibition order is thus set aside.

M I F NATHIRE

Senior District Magistrate

This 10th June 2026