



# Regina vs. Ajmer Singh

Remote Bail Hearing: June 25<sup>th</sup>, 2021

Courtroom B14, Burlington, Ontario

Remote Oral Judgement

His Worship, Justice Mark J. Curtis

June 28<sup>th</sup>, 2021, M9 Court

Ontario Court of Justice

Milton, Ontario

Federal Crown: Mr. Robert Kraska & Mr. Jonathan Geiger

Defence Counsel: Mr. Joseph Neuberger & Mr. John Navarrete

## Introduction

1. The Ontario Court of Appeal in recent years has directed all judges to be clear and understandable when giving their oral decisions. Specifically, we have been directed by the higher courts, that when we give our oral decisions, we are to speak as if we were addressing our neighbours. It is my hope that my bail decision today will meet such expectations and my conclusions will illustrate the analytical path of my conclusions and in the process, justice will not only be done but seen to be done.

## Case Law & Exhibits Cited

2. The following appellant court decisions were relied upon in my assessment of this bail application.
  - The 1992, Supreme Court of Canada decisions, **Regina vs. Morales and Pearson**.
  - The 2002, Supreme Court of Canada decision, **Regina vs. Hall**.
  - The 2006, Ontario Court of Appeal decision **Regina vs. Mordue**.
  - The 2012, Ontario Superior Court decision, **R. vs. Budge**, which outlines three fundamentals necessary for an effective bail release order
  - The 2013, Ontario Court of Appeal decision, **Regina vs. Gulyas**.
  - The 2015 Supreme Court of Canada decision of **R. vs. St. Cloud**.
  - The 2017 Supreme Court of Canada decision **R. vs. Antic**.
  - The 2020, Ontario Superior Court decisions, **R. vs. J.R.**, **R. vs. Rajan**, **R vs. T.L.**, **R. vs. Barlane & R. vs. Downey**, **R. vs. Ali**, **R. vs. Nelson**, **R. vs. Wilson**, **R. vs. Stojanovski**, **R. vs. Spence**, **R. vs. Ibrahim**, **R. vs. Rosbottom**, **R. vs. Watson**, **R. vs. Jayakanthan**, **R. vs. K.D.**, **R. vs. S.H.**, **R. vs. Sappleton**, **R. vs. Henry**, and **R. vs. Syed**.
  - The 2020, Supreme Court of Canada's decision, **R. vs. Zora**.
  - The 2020, Ontario Superior Court decision, **R. vs Spencer**, **R. vs. Nelson**.
  - The 2020 Ontario Superior Court decision, **R. vs. Stanley**.
  - The 2020, Ontario Superior Court decision, **R. vs. Wisdom**
  - The 2020, Ontario Superior Court of decision, **R. vs. Benson**
  - The 2020, Ontario Superior Court decision, **R. vs. N. Singh**
  - The 2021, Ontario Superior Court decision, **R. vs. Wray**
  - The 2021, Ontario Superior Court decision, **R. vs. Johnson**.

The complete bail package for Ajmer Singh for my review was marked and sealed as Exhibit# 1, and included, Tabs 1 -22, which consisted of the following.

- **Tab 1; The Proposed Bail Plan & Conditions**
- **Tab 2; The Listing of the Charges**
- **Tab 3; The Affidavit of Baljit Singh Mann**
- **Tab 4; Surety Declaration**

- Tab 5; Photo ID of Baljit Singh Mann
- Tab 6; Amjer CPIC & Criminal Record
- Tab 7; Crown Synopsis for March 22, 2021
- Tab 8; Crown Synopsis for March 29, 2021
- Tab 9; Statement of Karan Dev
- Tab 10: Statement of Sawraj Singh
- Tab 11 & 12; Recovery Science
- Tab 13; Relevant Case Law – Electric Monitoring
- Tab 14-18; Case Law
- Tab 19; Vancouver Sun Article
- Tab 20: Email from Baljit Singh Mann
- Tab 21; Receipt from Amazon
- Tab 22; Email from Federal Crown

## The Analysis of the Evidence

3. By the very nature of the charges facing, **Ajmer Singh**, he found himself in a reverse onus situation. The following offences were involved in the assessment of this bail application.
  - Possession for the Purpose of Trafficking (Fentanyl)
  - Possession for the Purpose of Trafficking (Cocaine) x 3
  - Possession for the Purpose of Trafficking (MDMA)
  - Trafficking of Cocaine
  - Possession for the Purpose of Trafficking (Psilocybin)
  - Contravention of the firearms act - unsafe storage
  - Possession of a weapon for a dangerous purpose
  - Unauthorized possession of a firearm
  - Possession of a firearm knowing its possession is unauthorized
  - Possession of a restricted firearm with ammunition
  - Possession of a weapon obtained by a commission of an offence
  - Possession of property obtained by crime - under \$5000 (for the stolen firearm)
  - Possession of property obtained by crime - over \$5000 (for the bundled currency)
  - Trafficking a restricted firearm
  - Trafficking ammunition
  - Trafficking property obtained by crime (for the stolen firearm)
  - Trafficking property obtained by crime (for the bundled currency)
  
4. In this bail application, the Crown is seeking **Ajmer Singh's** detention based upon the **primary, secondary and tertiary grounds**. With the respect to the primary ground concerns, the Crown submits that if **Ajmer Singh** were to be released, he would not attend Court as required. With respect to the secondary grounds, the Crown asserts that if **Ajmer Singh** is released, there is a substantial likelihood he would commit further offences putting the safety of the public at risk. Finally, in regard to the **tertiary grounds**, the Crown submits that, if **Ajmer Singh** is released, the public would lose confidence in the administration of justice if the applicant were released.

5. In assessing **Amjer Singh's** bail application there are many factors to consider.
- a) First, I must assess the totality of the evidence presented during the hearing; reduced to its essentials, the allegations surrounding Ajmer Singh involve his participation in the clandestine subculture of drug trafficking, in particular, the alleged trafficking of one the most toxic, addictive and deadliest substances on our streets, fentanyl. In the fall of 2020, members of the Halton Regional Police Service's Drug and Human Trafficking Unit began a drug trafficking investigation named Project Lynx. This investigation targeted multiple persons working together to traffic controlled substances throughout the Greater Toronto and Hamilton areas. As a result of the drug trafficking, proceeds of the crimes would be collected in return. On March 28th, 2021, multiple persons were arrested for their involvement in this organization and several Controlled Drugs and Substances Act search warrants were executed. The Crown's allegations also included the execution of a CDSA search warrant on March 29th, 2021 on the address of 3880 Duke of York Blvd, Mississauga, the residence of Ajmer Singh and his wife Parminder Grewal and their motor vehicle, where large amounts of drugs were discovered and a significant amount of currency (\$500,000 dollars). Both were arrested for multiple charges involving the possession of drugs for the purposes of trafficking and the possession of property obtained by crime over \$5,000. On March 31st, 2021, a Controlled Drugs and Substances Act search warrant was authorized for 14125 Centreville Creek Road in Bolton, Ontario. A search of the residence located the same package as observed with Ajmer SINGH on March 25th, 2021 in the master bedroom closet of the residence. This bedroom belonged to both Sawraj Singh and Karan Dev. When the package was opened, approximately \$100,000 in bundled Canadian currency was located as well as a bag containing a Ruger .357 caliber handgun (a restricted firearm) and loose ammunition. It is alleged that on March 25th, 2021, Ajmer Singh brought this firearm out of his condo unit and into his vehicle, before trafficking it to someone else. The firearm was not stored, handled or transported in manner that complied with regulations set out under the Firearms Act.
- b) My assessment of the bail application must also consider whether **Ajmer Singh**, has a criminal record, which I was advised, he does not.
- c) I must also consider any outstanding charges facing **Ajmer Singh**, which I was informed, there were no outstanding charges facing **Ajmer Singh**.
- d) My assessment also requires the examination of both the proposed surety **Baljit Singh Mann**, the younger brother of **Ajmer Singh** and the proposed plan of supervision which reduced to its essentials consists of a 24/7 house arrest and monitoring of Amjer Singh with the implementation of **Recovery Sciences** ankle monitoring program and the

installation of cameras within the surety's residence, so that **Ajmer Singh** can be visually supervised, in the event, that the surety requires to leave the residence. In its entirety, the proposed plan, complete with its monitoring enhancements, restrictive conditions with one surety supervision conjures up the resemblance of a custodial institution.

- e) Furthermore, I must also thoroughly review the submissions of both defence counsels, **Joseph Neuberger** and **John Navarrete**, and federal crown counsels, **Robert Kraska** and **Jonathan Geiger**.
- f) Most importantly, in my analysis, I must apply the relevant appellant Court decisions; which included several court decisions outlined in paragraph 2 of this decision, addressing the application of bail principles, COV19 and its relevance in evaluating the tertiary ground concerns and the implementation of GPS monitoring.
6. Most critical in my analysis is my *recognition* from the outset, that my judicial function at a bail hearing is one of ***trier of risk not the trier of fact***; thus, I must critically analyze the credibility and reliability of the sureties and the plan; mindful of the fundamental principle of the *presumption of innocence and Ajmer Singh's right not to be denied reasonable bail without just cause*. In previous bail assessments, I have found the 2007, Ontario Superior Court decision **Regina vs. Ryczak** at paragraphs 130-136; useful in offering a valuable framework, for an overall review of **Amjer Singh's** bail application. The appellant decision articulates the core principles regarding judicial interim release.

130 Section. 11(e) of the Charter which states; that "any person charged with an offence has the right ... not to be denied reasonable bail without just cause."

131 It is clear, from s. 11(e) of the *Charter*, that "pre-trial detention is extraordinary in our system of criminal justice": see the 1992, Supreme Court of Canada decision **R. v. Morales**.

132 Pre-trial release is the norm, not the exception: see the 2002, Supreme Court of Canada decision **R. v. Hall**

133 "Courts must be careful not to pander to public opinion or to take account of only the overly excitable": see 1999, Supreme Court of Canada decision **R. v. MacDougal** at para. 24.

134 Bail should not be denied "simply because it might be popular in the eyes of the public or some significant segment of it": see the 1998 Ontario Court of Justice decision, **R. v. Stevenson**, at para. 34.

135 The public that the Courts consider is the public that consists of reasonable and fair-minded persons who are knowledgeable about the presumption of innocence and the constitutional right to bail and who understand the reasons that

underlie those principles": see the 2005, Ontario Court of Justice decision, *R. v. Ibrahim*, at para. 17.

136 Whatever the charge, and no matter how serious, it must always be remembered that the presumption of innocence is the cornerstone of our criminal justice system.

## The Primary Grounds Analysis

7. With respect to my primary ground assessment, pursuant to Section 515 (10) (a) of the Criminal Code of Canada, the Crown contends that if Ajmer Singh were to be released, he would not attend Court as required. The Crown submits that based upon the very nature of the charges facing Ajmer Singh and the potential lengthy custodial sentence he might receive if found guilty at trial, such circumstances would give compelling reason for Ajmer Singh to take flight and not address his charges. Upon careful reflection of the totality of the evidence presented during the bail hearing; the evidence compels the Court to accept that Ajmer Singh has an involved family life, with strong roots in the community, which involve his wife and two young children. Furthermore, based upon the fact that Ajmer Singh is absent of any criminal antecedents which might substantiate any likelihood that he would fail to attend Court, I am of the view that Ajmer Singh has discharged his onus on the primary grounds, despite the Crown's submissions that the potential for a lengthy custodial sentence might facilitate the accused take flight.

## The Secondary Ground Analysis

8. With respect to the secondary ground concerns as outlined in section 515(10) (b) of the Criminal Code, I have reviewed the totality of the evidence presented at the bail hearing and I have applied the relevant bail case law, in particular the Supreme Court of Canada decisions **R. vs. Antic** and **Zora**, both address the various bail principles and their application. Although the appellant courts are divided on whether the ladder principle, articulated in the Supreme Court of Canada decision **R. v. Antic** is applicable in a reverse onus bail hearing, I find the ladder principle beneficial in assessing the element of risk and the appropriate release order. Upon review of the collective evidence of Ajmer Singh, I am of the view that in order to secure his liberty, he requires the assistance of a surety and a cohesive and restrictive plan of release. Even though the collective evidence fails

to instruct the court to accept that Ajmer Singh lacks the internal discipline to self govern himself, I am of the view that his life story demands an intensive and comprehensive plan of supervision involving a strong and influential surety who possesses what Justice Gary Trotter describes in his book on bail, "the pull of bail", which simply means, the necessary influence to properly supervise without any disagreement or non-compliance from Ajmer Singh. Generally, the trier of risk, when assessing the secondary ground concerns, I am to simply answer the critical question; is Ajmer Singh releasable? And if so, is the plan and the surety satisfactory for his release? I am also mindful in my assessment that we are living in unprecedented times with the COVID 19 pandemic and thus, I turned my mind to many relevant case decisions addressing COVID 19 and bail, and even though the Court heard no viva voce evidence to assist the Court in assessing as to whether **Ajmer Singh** is a vulnerable person with respect to Covid 19 within the custodial institution, I gave minimal weight to the relevance of COVID in this bail application.

9. Another appellant decision worthy of note and influential among many **triers of risk**, is the Ontario Superior Court decision **R. vs. Budge**. In the Budge decision, Justice Dumo articulated three essential prerequisites required for an effective release order; (1) the appropriate conditions to mitigate against potential breaches, (2) an influential surety or sureties if required and (3) the willingness of the accused to abide by Court orders and the supervision of the surety. In addition to R. vs. Budge, I was also mindful in my assessment of the secondary ground concerns by the 2015, Ontario Superior Court decision, **R. vs. Fleming**. In this appellant decision, Justice Gary Trotter, states that *the past of the accused will be determined at trial by the trier of fact, at the bail stage, the bail judge in their analysis should focus on the future*.
10. The Crown's representations in support of detention on the secondary grounds could be properly summarized in the following arguments.
  - The Crown presented evidence to support their argument that the proposed surety, **Baljit Singh Mann**, had a two year absence in the life of his brother **Ajmer Singh**, and such an absence should be interpreted by the Court as a lack of personal knowledge, hence, the surety lacks the required influence to supervise.
  - The Crown also presented evidence in cross examination of the surety, revealing the surety's present financial rental arrangement with the co-accused, **Parminder Grewal**, the spouse of Amjer Singh; characterizing such an arrangement as

inappropriate, implying a potential lack of objectivity on behalf of the surety.

- The Crown also presented appellant court decisions supporting deficiencies and limitations in the implementation of GPS monitoring system
- and finally, the Crown submitted evidence in support of their underlying argument, against release, that being, the proposed plan on its face appears overzealous, overwhelming and perhaps naïve in regard to its operation and execution, considering the serious nature of the charges.

11. On the contrary, I found; the collective evidence associated with the proposed plan and surety contained many constructive, positive and proactive features, strengthening the mitigation of any potential elements of risk. In particular, I found Baljit Singh Mann's viva voce evidence persuasive and compelling, directing me to acknowledge that he enjoys the required influence necessary to enforce the proposed conditions of the plan or any orders this Court would impose. When assessing "the pull of bail" the surety's relationship with an accused must be carefully examined. The strength or weaknesses of the pull of bail is contingent upon the nature of the relationship shared between the accused and the surety. In some circumstances, a strong and intimate family relationship can be a mitigating factor when determining the suitability of a surety. On the other hand, some proposed family members and friends share a relationship which can be assessed as a liability when it comes to supervision. The surety's relationship with an accused was addressed in the Ontario Court of Appeal decision **R. v. Gulyas**, which articulated the potential for vulnerabilities with proposed sureties who are family members and friends of an accused. The appellant court articulated that in some cases, family members who proposed themselves as sureties demonstrate their hearts are in the right place but once wise in the role discover the duties of a surety are beyond their ability; admitting their hearts were the single and only motivation in their enforcement of court orders and the supervision of the accused. In such circumstances, sureties would potentially enable the accused party, versus holding them accountable. In the case of Baljit Singh Mann, I found his relationship shared with Ajmer Singh, does not propose a liability, but rather a strength, in that I found no evidence in his testimony that he would enable the accused when enforcing the conditions of bail.



12. This principle addressing a surety's suitability and its nexus to the nature of the relationship that exists between an accused party and the proposed surety was clearly outlined in Justice Trotter's book, *The Law of Bail in Canada* at 198,

On a view of the surety relationship that contemplates any degree of supervision of the accused, it is crucial to know whether the relationship is one which realistically permits the infusion of these obligations and their potential enforcement...factors such as how long the surety is known the accused, whether they are related, how frequent they see each other and how close they live to one another, should give some indication of how well a surety can be respected to supervise an accused and take action if the accused fails to live up to the condition of his or her release.

13. Clearly, Baljit Singh Mann demonstrated throughout his testimony demonstrated he possesses the *pull of bail* and there was no evidence to the contrary to suggest Ajmer Singh would not abide by the supervision of his brother Baljit Singh Mann or his enforcement of the court conditions, specifically, when no criminal antecedents associated with Ajmer Singh were presented during the bail hearing to corroborate non compliance to Court orders. In my view, Baljit Singh Mann's *viva voce's* evidence demonstrated a thorough understanding of his rights and responsibilities of a surety as per the Ontario Court of Appeal decision **R. vs. Horvath**. Despite the Crown's representations characterizing the proposed surety's family dynamic as a potential to be a liability to the success of the surety's supervisory role. On the contrary, my evaluation of the collective evidence suggests, the family dynamic will only enhance the plan and supervision of the accused. Furthermore, I also found that upon cautioning of Baljit Singh Mann as to the possibility of a potential forfeiture of significant funds if an estreatment were commenced, if Ajmer Singh were to breach and the possibility of violent retribution against Ajmer Singh or his family, neither consequence evoked any wavering in his determination and/or readiness to propose himself as surety.

14. In the Ontario Superior Court decision, **R. vs. Miller**, the appellant Court highlighted that the surety test is not perfection, but rather, will the surety call the authorities if a breach is about to occur or has occurred. Upon careful review of Baljit Singh Mann's testimony, he did not waiver in his understanding of his duties and/or his willingness and readiness to call authorities if his brother, Ajmer Singh were to breach. Based upon the surety's overall testimony, it is abundantly clear that his mindset demonstrates a sufficient readiness and ability to execute his duties as a surety. Furthermore, the surety's proactive

decisions to re-locate himself and his mortgage business to Ontario combined with his efforts to obtain a temporary driver's license in Ontario and the implementation of cameras at his expense to his new residence in Mississauga could be characterized as close to perfection as possible.

15. In the 1992 Supreme Court of Canada decision, **R. vs. Morales**, Chief Justice Lamer articulated the test at para. 39, when assessing the secondary ground; he stated,

**Bail is not denied for all individuals who pose a risk of committing an offence or interfering with the administration of justice while on bail. Bail is denied only for those who pose "a substantial likelihood" of committing an offence or interfering with the administration of justice, and only where this "substantial likelihood" endangers "the protection or safety of the public". Moreover, detention is justified only when it is "necessary" for public safety. It is not justified where detention would merely be convenient or advantageous.**

16. With this test in mind and the application of other relevant decisions to the totality of the evidence before me and bearing in mind the secondary ground is only engaged if there is a substantial likelihood that Ajmer Singh would commit an offence that would endanger the protection or safety of the public, I am of the view, that the proposed restrictive plan together with an influential surety alleviate any substantial likelihood of Ajmer Singh re-offending or interfering with the administration of justice. The expectations and demands of supervising Ajmer Singh, in an effective judicial interim release have been met in the proposed surety and comprehensive plan. Thus, for the said reasons, articulated in paragraphs 7-16 of this decision, I am of the view that Ajmer Singh has discharged his onus on the secondary grounds, pursuant to Section 515 (10) (b) of the Criminal Code of Canada.

## The Tertiary Ground Analysis

17. With respect to the tertiary grounds, I must assess as to whether the public would lose confidence in the administration of justice **if Ajmer Singh** were to be released? In considering this ground, I must carefully consider the Supreme Court of Canada's decision **R. vs. St. Cloud**, and its interpretation of Section 515(10)(c) and the recent COVID 19 Court decisions addressing bail applications. In the decision, **R. v Ibrahim**, the appellate court articulated that the pandemic is not determinative under this ground. The underlining principle to consider in my assessment of the tertiary ground is the public confidence in the administration of justice. Understandably, the public confidence may be eroded or lost if a person vulnerable to contracting the deadly virus is detained. Yet at the same time, in my assessment I must also be keenly aware that the public's perception

of the administration might be jeopardized if the pandemic were perceived as an automatic factor in releasing every accused who comes before the Court in bail without considering and weighing all of the factors and principle associated with the assessment of a bail application. Based upon the appellant court decisions addressing COVID19 and its nexus with the tertiary grounds, Despite the brief representations by defence counsel outlining the serious nature of the new Delta variant and recent outbreaks in custodial institutions in the province, I found, that in the absence of any viva voce evidence from Ajmer Singh, or submissions from defense counsel which might establish a nexus that Ajmer Singh is a potential vulnerable person within a custodial institution, in the event, there is an outbreak, together with the data supporting a decline in COVID cases within the institution and in the community at large and considering many of the appellant decisions addressing COVID9, were written at the height of the pandemic and the rollout of the vaccine had not commenced, I considered the element of the pandemic had little relevance to Ajmer Singh's bail application.

18. The decision of **R. vs. St. Cloud** interpreted Section 515(10)(c) of the CCC not to be necessarily limited to exceptional circumstances, such as the most heinous crimes involving circumstances similar to those in **Regina vs. Hall**, or to certain classes of crimes. It further added, that, detention may be justified only in rare cases is simply a consequence of the application of s. 515(10) (c) and not a precondition to its application. The Crown can rely on s. 515(10) (c) for any type of crime, but it must prove, except in the cases provided for in s. 515 (6), that the detention of the accused is justified to maintain confidence in the administration of justice. It is important not to overlook the fact that, in Canadian law, the release of accused persons is the cardinal rule and detention, the exception”.
19. Central to the **R. vs. St. Cloud**, decision, the Court focused upon the test articulated in s. 515(10) (c) at paragraph 5 the Court stated.

**“In my opinion, the scope of s. 515(10) (c) has been unduly restricted by the courts in some cases. This ground for detention is not necessarily limited to exceptional circumstances, to the most heinous of crimes involving circumstances similar to those in Hall, or to certain classes of crimes**

Further at paragraph 50 of the decision, the Court stated:

**Furthermore, I agree with the appellant that detention may be justified only in rare cases, but that this is simply a consequence of the application of s. 515(10) (c) and not a precondition to its application, a criterion a court must consider in its analysis or the purpose of the provision.**

At paragraph 54 the Court in **St. Cloud** also stated that.

The application of s. 515(10) (c) is not limited to exceptional circumstances, to “unexplainable” crimes or to certain types of crimes such as murder. The Crown can rely on s. 515(10)(c) for any type of crime, but it must prove — except in the cases provided for in s. 515(6) — that the detention of the accused is justified to maintain confidence in the administration of justice.

20. Further, the decision of **St. Cloud** enunciated at par. 55 how to apply s. 515(10) (c).

**Section 515(10) (c) expressly refers to four circumstances that must be considered by a justice in determining whether the detention of an accused is necessary to maintain confidence in the administration of justice. The justice must assess each of these circumstances — or factors — and consider their combined effect. This is a balancing exercise that will enable the justice to decide whether detention is justified.**

In assessing section 515(10) (c), (1) the apparent strength of the prosecution’s case, the decision of **St. Cloud** emphasizes at paragraphs 57 to 59.

***The prosecutor does not have to prove offence beyond a reasonable doubt and justice must be careful not to play the role of the trial judge and that the credibility of witnesses and reliability of evidence analyzed at trial not the release hearing.***

St. Cloud also stressed at the release hearing; the justice must consider the quality of the evidence tendered by the prosecutor to determine the weight to be given by this factor. **St. Cloud** also stressed that when assessing the apparent strength of the case, physical evidence may be more reliable than a mere statement of a witness, circumstantial evidence may be less reliable than direct evidence, existence of ample evidence may also reinforce the apparent strength of the prosecution’s case. Further, the decision of **St. Cloud** enunciated that the presiding justice may consider any defence raised by the accused if it appears to be some basis for the defence and the justice must take this into account in assessing apparent strength of the prosecution’s case.

21. After careful analysis of the decision of **Regina vs. St. Cloud** and its interpretation of Section 515 (10) (c) of the Criminal Code of Canada in particular, the circumstance regarding; the apparent strength of the prosecution’s case. Notwithstanding defence counsel’s submissions to suggest that the Crown’s evidence may contain potential triable issues; I am of the view that the quality of the evidence regarding Ajmer Singh, appears relatively strong, despite defense counsel’s argument and the crown’s concurrence that the evidence surrounding the firearm found pursuant to a search warrant as tenuous.
22. Considering (ii) the gravity of the offence, at paragraph 60, **St. Cloud** emphasizes the importance of assessing the objective gravity of the offences and assessing on the basis

of the maximum sentence and minimum sentence if any. Further, in my analysis, I am to carefully consider the (iii) circumstances surrounding the commission of the offence including whether firearm was used in the commission of the offence. Further, at paragraph 61 of the **St. Cloud** decision; the Court stressed the need for the presiding justice to carefully consider whether the offences involved are (a) violent, heinous or hateful one, committed in the context of domestic violence; involve a criminal gang, terrorist organization; or were there victims involved, including vulnerable parties.

23. With this in mind, I am aware that the allegations surrounding Ajmer Singh involve the discovery of a significant number of lethal drugs and currency discovered at his residence as a result of an executed search warrant. Such a discovery strongly suggests a sophisticated, structured and organized subculture of drug trafficking versus a personal addiction of the accused. Further, the quantum of cash discovered strongly compels this court to accept that the illegal drugs associated with Ajmer Singh and the alleged sub drug trafficking culture are extremely profitable and addictive. Based upon the addictive nature of these illegal drugs, those engaged in purchasing such drugs could be sufficiently characterized as highly vulnerable. Collectively, these factors, in my view, fall under the category of the circumstances surrounding the commissioning of the offence and deserve the court's careful assessment.
24. Further, in the evaluation of the tertiary grounds, I am to consider whether Ajmer Singh is liable for a potentially lengthy term of imprisonment; the decision of **St. Cloud** at paragraphs 62 to 65, emphasizes that there is, (1) no strict rule regarding the number of years that constitutes a lengthy term of imprisonment, (2) that reference to a potentially lengthy term of imprisonment, does not refer only to a life sentence ( 3) I must also consider all the circumstances known at the time of the hearing and principles for tailoring an appropriate sentence, recognizing that at the same time I am not to embark upon calculating an appropriate sentence.
25. Mindful not to embark upon any sentence calculation, in assessing the totality of the evidence presented at this bail application and considering applicable case law and Section 95(1) of the Criminal Code, upon conviction, it is my view, that the allegations surrounding the offences, might potentially attract a penitentiary sentence upon conviction. I would suggest that the decision of **St. Cloud** was contemplating such circumstances similar to the allegations surrounding Ajmer Singh, especially when interpreting the issue of a potentially lengthy term of imprisonment.

26. Further in my assessment of the tertiary grounds is the interpretation **St. Cloud** gives to the meaning of the public, which is presented at paragraphs 72 to 86. Clearly, the Supreme Court decision asserts that the public does not mean Canadians who react impulsively. The must does not yield to purely emotional reactions or reactions that may be based on inadequate knowledge of the real circumstances of the case. At paragraph 86 the Court stated.

*In short, the person in question in s. 515(10)(c) is a thoughtful person, not one who is prone to emotional reactions, whose knowledge of the circumstances of a case is inaccurate or who disagrees with our society's fundamental values. But he or she is not a legal expert familiar with all the basic principles of the criminal justice system, the elements of criminal offences or the subtleties of criminal intent and of the defences that are available to accused persons.*

27. Taking into consideration, the proper assessment of the maximum, or near maximum, force of the four factors found in section 515 (10) (c) of the Criminal Code of Canada and even if both Defense and Crown counsel conceded that the proposed surety, **Baljit Singh Mann** is strong, this alone, cannot offset the necessity of detention to preserve public confidence in the administration of justice as addressed in the 2006 Ontario Court of Appeal case of **Regina vs. Mordue** and considering the public confidence in the administration of justice cannot be linked to the concept of the protection of a complainant or the community which is primarily a secondary ground concern and taking into account the tertiary ground provides a separate and independent basis to refuse bail to an accused.

28. In 2021, Ontario Superior Court decision, **R. vs. Johnson**, the appellant Court emphasized the separate and independent basis, the tertiary ground provides to refuse bail. In particular at paragraph 44, **Justice N. J. Spies** states that even if the four factors favour detention, detention is not always automatic; the plan of release must be considered in its entirety and must be assessed as to whether the strength of a proposed plan is a relevant factor;

**44. Although the four main factors favour detention, that does not mean that Mr. Johnson's continued detention is automatic. In balancing these factors and considering whether or not Mr. Johnson's detention is necessary to maintain confidence in the administration of justice, I can consider the plan of release proposed. Although the tertiary ground provides a distinct basis for pre-trial detention from the secondary ground, and I must be careful not to conflate the two, the strength of the plan of release is a relevant factor on the tertiary ground; see R. v. Dang, 2015 ONSC 4254, 122 W.C.B. (2d) 479, at para. 58. Unfortunately in this case, I have found that the plan of release is not very strong in that there will be periods of time when Mr. Johnson is not being supervised by his surety. I am concerned that public confidence in the administration of justice will not be maintained by a "reasonable and knowledgeable member of the community" given the seriousness of the offences Mr. Johnson is charged with and the plan that he be released into the community without constant supervision**

29. Further at paragraph 49 of the **R. vs. Johnson** decision, the appellant Court suggested that if presented with a stricter form of release plan that would adequately supervise the accused a different outcome might have occurred.

If he (Mr. Johnson) could propose a plan where he was released on strict house arrest, either with a solid surety who would be able to supervise him 24/7 or by being subject to GPS monitoring, then I might well have come to a different conclusion. I agree that depending on the strength of the plan of release, that as intimated by Justice of the Peace Madigan and as stated by Mr. Krueger that Mr. Johnson might be releasable and in fact that would be in his best interests if it could be accomplished without risk to the public. Despite the strength of the tertiary grounds, the other factors favouring release, if combined with a strong release plan that would ensure Mr. Johnson does not pose a threat to public safety, would in my view not result in a reasonably informed member of the public having their confidence in the administration of justice undermined should he be released. R. v. Johnson interests if it could be accomplished without risk to the public. Despite the strength of the tertiary grounds, the other factors favouring release, if combined with a strong release plan that would ensure Mr. Johnson does not pose a threat to public safety, would in my view not result in a reasonably informed member of the public having their confidence in the administration of justice undermined should he be released

30. With the **Johnson** decision in mind, I am of the view that the strength of the proposed plan of release, in particular, the surety **Baljit Singh Mann** together with the proper consideration of **the quality of the evidence** tendered by the Crown, I am of the view, there are evidentiary issues raised by defense counsel, Mr. Neuberger which might be characterized as triable in nature and raise questions as to the level of involvement Ajmer Singh has within the subculture of drug trafficking. In my opinion, the triable issues can be best summarized and characterized in the following.

- (a) the tenuous nature of the firearm evidence and its nexus to **Ajmer Singh** and
- (b) **Ajmer Singh's** level of involvement withing the sub-culture of drug trafficking and its nexus to the collective evidence gathered by the Crown.

Notwithstanding, the Crown's overall argument that supports a strong evidentiary case against Ajmer Singh; in particular, their evidence corroborating Ajmer Singh's connection to every other member of the project, indirectly, advocating, that his participation in the subculture of drug trafficking, could be properly categorised as one of leader. I am mindful that in my role as trier of risk, I am to be careful not to embark upon an assessment of the credibility and reliability of the evidence but can consider the quality of the evidence. At this juncture, I am not confident to find the quality of the evidence, persuasive enough to establish, beyond a reasonable doubt, Ajmer Singh's involvement with the other co-accused parties establishes him as a leader of the overall operation.

31. Thus, considering that the potential for triable issues, together with a strict plan of release and the application of the definition of a reasonably, informed member of society outlined in **R. vs. White**, I am of the view that such combined factors mitigate in favour of release. It is my view, if a reasonable member of society, that is someone who comprehends the philosophy of the legislative provisions and the charter values were privy to this bail hearing, they would not lose confidence in the administration of justice, if Ajmer Singh were released. Looking at the enumerated factors of this case, I am of the view, the Ajmer Singh has discharged his onus on the tertiary grounds, contrary to Section 515 (10 (c) of the criminal code of Canada. Ajmer Singh will then be released on a surety release order to Baljit Singh Mann in the amount of \$100,000 with the following conditions.

1. Reside with your surety **Baljit Singh Mann** at 335 Webb Drive, Unit 1004, Mississauga, ON and be amendable to the rules of the surety.
2. Remain in your residence at all times except:
  - when in the presence of your surety, **Baljit Singh Mann** or an adult approved in writing, dated and signed and carried on his person
  - for medical emergencies involving you or your immediate family; or
  - for court appearances or meetings with counsel.
3. Abstain from communicating directly or indirectly with, Clinton Valentine, Marko Vrakela, Terence Yoo, Jordan Treleaven, Douglas Johnson, Karan Dev, and Sawraj Singh.

Abstain from communicating with Parminder Grewal, except through legal counsel or by e-mail with the supervision of the surety with regards to childcare matters.

Access to the children through a mutually agree to third party or a Family Court Order valid after today's date..

4. Not to possess a cell phone or any device that has access to the internet, unless in the direct supervision of your surety.
5. Not to possess any firearms or weapons as defined by the Criminal Code.
6. Not to possess or consume any non-prescription drugs or narcotics prohibited by the Controlled Drugs and Substances Act.
7. Surrender all passports to Office in Charge or designate at Halton Regional Police within 48 hours of your release and do not apply for any travel documents.
8. Remain in the province of Ontario.



9. Be subject to the GPS Monitoring by Recovery Science Corporation, (RSC) which shall include.
- **Ajmer Singh shall enter into RSC's participant agreement and comply with its terms.**
  - **Ajmer Singh shall wear a GPS ankle bracelet at all times.**
  - **Ajmer Singh shall permit RSC to install supplementary equipment to inspect, replace and maintain equipment as it deems necessary.**
  - **Ajmer Singh shall comply with RSC leave notification and battery requirements.**
  - **Ajmer Singh shall consent to all RSC leave notification to be emailed directly to the OPP.**
  - **Ajmer Singh shall cooperate fully with RSC staff.**
  - **Ajmer Singh shall consent to login credentials to be provided to the OPP by RSC for the purposes of obtaining current historical and GPS location information at anytime.**
  - **Ajmer Singh shall consent to RSC providing information to Surety upon request by surety for purposes of current location and location history.**

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His Worship, Justice of the Peace Mark J. Curtis

June 28<sup>th</sup>, 2021, M9 Court



