



# LAW ASSOCIATION OF TRINIDAD AND TOBAGO

---

## **MEDIA RELEASE**

The Law Association of Trinidad and Tobago (LATT) deprecates the recent attempts by regional political leaders to ridicule judges for their decisions to grant bail to persons charged with murder and, worse yet, suggest that they tend to favour the clients of certain unidentified lawyers.

A person who is arrested and charged with a criminal offence is **not** presumed to be guilty of the offence. He or she is only guilty when a Magistrate or a jury returns a guilty verdict after a trial at which the prosecution and defence present their evidence and their arguments on the law. The Constitution of the Republic of Trinidad and Tobago enshrines the right of a person charged with a criminal offence to be presumed innocent until proven guilty. This is not a lawyer's pious incantation of some technicality aimed at thwarting the ends of justice. It is an integral part of the justice system itself which affords protection to all persons if they are charged with a criminal offence.

The criminal justice landscape is littered with cases in which the prosecution has failed to prove their case and a not-guilty verdict is returned, or in which the Director of Public Prosecutions determines for one reason or the other to discontinue a charge. Persons charged with an offence who are denied bail, always run the risk of being deprived of their liberty for the increasingly long periods it takes for a case to come to trial and then to be exonerated at the conclusion of the trial process. This is why the Constitution also guarantees the right **not** to be denied reasonable bail without just cause.

The way the right is expressed implicitly involves an acceptance that bail can be denied, for just cause. Just cause is established where there is evidence that the accused may not turn up for trial if released on bail, may interfere with witnesses or may commit other offences while out on bail. It falls to the judiciary in every case to balance, on the one hand, the public interest in safety and protection from the criminal element, and on the other, the accused's right to liberty and to not be presumed to be guilty simply because a charge is laid against him or her. It is a difficult balancing act to perform.

Judges and magistrates have the unenviable task, each time a person is charged with an offence, and bail must be considered, of weighing that person's right to liberty against the public interest. Judges cannot simply decide not to grant bail altogether. No doubt, there would be occasions where persons released on bail have gone on to engage in criminal activity. But that is no reason to castigate judges and magistrates for doing the job the Constitution requires them to do and for upholding the sacred constitutional rights to which we are all entitled.

It is the responsibility of us all to work towards mechanisms to deal with the surge in criminal activity in our region and it is to be expected that judges and magistrates will be sensitive to what is happening in the wider society. But it is counter-productive to wantonly castigate those sworn to protect and uphold hard-won and cherished rights in the pursuit of these solutions. It is even more irresponsible on the part of our regional leaders to sow public discord about the difficult decisions which judges and magistrates are entrusted to make and to do so without even taking the time to examine the particular facts of the cases with which they seem to have taken issue. Can it reasonably be suggested that a judge or magistrate who releases a person on bail, particularly where that person has been awaiting trial for upwards of ten years, with no prospect of a trial within a reasonable time, is a judge or magistrate who lives on Mars?

There is no doubt in our minds that the judiciary must remain open to constructive criticism. But random and unreasoned ridicule will serve only to undermine confidence in the very judiciary upon whom we all depend, our regional leaders included, for the due and timely delivery of justice.

**LAW ASSOCIATION OF TRINIDAD AND TOBAGO**

**18 April 2023**