

IN THE MAGISTRATES' COURT OF VICTORIA  
AT MELBOURNE  
CRIMINAL DIVISION

Not Restricted

Case No. S10984614

Kawsar Ahmad

Applicant

v

Federal Agent DSC Marc Clendenning

Respondent

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CHIEF MAGISTRATE: HANNAN J

WHERE HELD: Melbourne

DATE OF HEARING: 19, 22, 23 June 2026

DATE OF DECISION: 26 June 2026

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CRIMINAL LAW – Application for bail – Crime against humanity – Enslavement – Possess a slave  
– Use a slave – Engage in slave trading – Risk of endangering the safety or welfare of any other  
person – Risk of terrorism offending.

APPEARANCES:

Counsel

Solicitors

For the Applicant

Mr Morrissey with Ms Clark

Balmer & Associates

For the Respondent

Mr Sprague

CDPP

HER HONOUR:

**The charges**

1. The matter before me is an application for bail by Kawsar Ahmad. Mrs Ahmad is charged with four offences each of which carries a maximum penalty of 25 years imprisonment:
  - a. Charge 1 – crimes against humanity – enslavement – contrary to s 268.10 of the *Criminal Code Act 1995* (Cth)
  - b. Charge 2 – possess a slave – contrary to s 270.3(1)(a) of the *Criminal Code Act 1995* (Cth)
  - c. Charge 3 – use a slave – contrary to s 270.3(1)(a) of the *Criminal Code Act 1995* (Cth)
  - d. Charge 4 – engage in slave trading – purchase – contrary to s 270.3(1)(b) of the *Criminal Code Act 1995* (Cth).

**Applicable legislation**

2. In the usual course, state bail laws apply in relation to Commonwealth offences by virtue of s 68(1) of the *Judiciary Act 1903* (Cth) which provides that state laws regarding arrest, custody, and bail are applied as Commonwealth law when a person is charged with a federal offence in a State.
3. There are however some Commonwealth offences for which bail cannot be granted unless the bail authority is satisfied that exceptional circumstances exist to justify bail.
4. Section 15AA of the *Crimes Act 1914* (Cth) (*‘Crimes Act’*) provides that bail is not to be granted in certain cases. Subsection (1) provides:
  - (1) Despite any other law of the Commonwealth, a bail authority must not grant bail to a person covered by subsection (2) or (2A), in relation to an offence against a law of the Commonwealth, unless the bail authority is satisfied that exceptional circumstances exist to justify bail....
5. Subsection (2A) provides:
  - (2A) This subsection covers the following persons:

...

6. Subparagraph (b) provides:

- (b) a person who the bail authority is satisfied has made statements or carried out activities supporting, or advocating support for, terrorist acts within the meaning of that Part.

7. Section 100.1 of the *Criminal Code Act 1995 (Cth)* ('*Criminal Code*') provides that:

**terrorist act** means an action or threat of action where:

- (a) the action falls within subsection (2) and does not fall within subsection (3); and
- (b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and
- (c) the action is done or the threat is made with the intention of:
  - (i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or
  - (ii) intimidating the public or a section of the public.

*Elements of the definition of **terrorist act***

(2) Action falls within this subsection if it:

- (a) causes serious harm that is physical harm to a person; or
- (b) causes serious damage to property; or
- (c) causes a person's death; or
- (d) endangers a person's life, other than the life of the person taking the action; or
- (e) creates a serious risk to the health or safety of the public or a section of the public; or
- (f) seriously interferes with, seriously disrupts, or destroys, an electronic system including, but not limited to:
  - (i) an information system; or
  - (ii) a telecommunications system; or
  - (iii) a financial system; or
  - (iv) a system used for the delivery of essential government services; or
  - (v) a system used for, or by, an essential public utility; or
  - (vi) a system used for, or by, a transport system.

8. There is issue between the parties as to whether the criteria are satisfied such as to enliven this provision and the requirement that the applicant satisfy the Court of exceptional circumstances.
9. The prosecution argue that the test is satisfied via two pathways. The first being Charge 1 itself and the second being the applicant's social media posts and other communications. The prosecution say Charge 1, having regard to its elements, is an allegation of a terrorist act as defined in s 100.1 of the *Criminal Code* - in that, what is alleged is an action (enslavement) where the action is done with the intention of advancing a political, religious or ideological cause; and the action is done with the intention of intimidating a section of the public, namely the Yazidi community; and the action includes causing serious physical harm to a person and/or a person's death and/or endangers a person's life in that the actions were part of the wider ideological pursuits of IS to commit genocide upon the Yazidi population. The prosecution submit that the allegation is enough to found satisfaction that the "accused has made statements or carried out activities supporting, or advocating support for, terrorist acts".
10. In my view, s 15AA(2A)(b) of the *Crimes Act* is not enlivened by a charge being laid. Had parliament intended that to be the case, the offences with which the applicant is charged could have been included in s 15AA(2) which enlivens the application of the exceptional circumstances test to a defendant "charged with or convicted of" certain offences.
11. What s 15AA(2A)(b) requires is satisfaction that the applicant has made the relevant statement or carried out the relevant activity. On a plain reading this satisfaction must be reached before the section is enlivened, that is, relevant satisfaction is a precondition to the exceptional circumstances test applying.
12. I think the level of satisfaction required must have regard to the consequences of such satisfaction, being that an accused person faces an additional hurdle to be granted bail.
13. What I am asked to act upon via this first pathway is a charge and the facts said to found that charge, that is allegations, and to found my satisfaction on this basis. Had parliament intended this pathway to enliven what is a provision with serious consequences for liberty I think it is reasonable to assume they would have done so

explicitly by making the exceptional circumstances test applicable to a person charged with the any of the offences before the court or perhaps any offence that is charged as a crime against humanity via inclusion in s 15AA(2).

14. I am unable to be relevantly satisfied at this time on the first basis argued by the prosecution.
15. Turning to the social media posts and whether I am satisfied the applicant has made statements or carried out activities supporting or advocating support for terrorists acts within the meaning of s 100.1 of the *Criminal Code*. In my view, the level of satisfaction is informed by the serious nature of the consequences of being so satisfied. At a minimum, the statements or activities must be clear, it would not be good enough to be satisfied they might, or could be, aligned with advancing a political, religious or ideological cause.
16. Satisfaction is a positive state of mind.
17. The statements and actions relied upon by the prosecution to meet the criteria of s 100.1 of the *Criminal Code* are set out at paragraph 39 of the prosecution statement of facts (exhibit P2) and they are addressed at paragraph 18 of the prosecution submissions (exhibit P1). I have acted on the basis that s 15AA(2A)(b) of the *Crimes Act* can be enlivened by a single or multiple statements or activities.
18. In their submissions the prosecution rely upon five Facebook posts and three statements attributed to the applicant by the complainant. I accept that these posts and statements must be considered in the context of the applicant having travelled to Syria with her family, allegedly moved around in Syria with Islamic State (IS), and that she had an IS identity card – all of which demonstrate, on their face, alignment with IS. But more than alignment with a terrorist organisation is required to satisfy the description of supporting a ‘terrorist act’ as defined in s 100.1 of the *Criminal Code* rather than for example, support for a terrorist organisation. I pause to note that no charges relating to terrorism or support of a terrorist organisation have been laid by the prosecution in this matter. Had they done so the application of the exceptional circumstances test could not be an issue.
19. Turning to the statements relied upon, firstly the applicant’s posts on Facebook on 21 March 2016 about her son’s suicide. I do not think those posts can be fairly read as support for either her son’s actions or IS. In this regard there is the evidence of Dr

Michael Davis, forensic psychologist, who opines that while it might be seen as the applicant being ‘well and truly into the cause while she is there’, it is also consistent with a mother trying to make sense of her son’s death. I do not think on a fair reading it can be said to constitute support for or advocating support for martyrdom or a terrorist act within the meaning of s 100.1 of the *Criminal Code*.

20. The comment allegedly made on 25 July 2016 about ‘death awaiting them all’ has many possible inferences given they are living in a conflict zone and the applicant also refers to ‘trying to stay safe’. I do not think this can be fairly read as supporting martyrdom or a terrorist act within the meaning of s 100.1 of the *Criminal Code*.
21. The post on 2 May 2016 is a dua (prayer) and a reference to Russian airstrikes across Syria wherein the applicant says, “defeat the groups (of disbelievers) Oh Allah defeat them and shake them”. Fairly read I do not think this post can be seen as support for a terrorist act within the meaning of s 100.1 of the *Criminal Code*.
22. The post on 4 May 2016 is a quote from Anwar al Awlaki about joining the caravan. It is not the subject of any comment by the applicant. The informant was unable say if Awlaki died in 2011 or whether the Muslim brotherhood which Awlaki led had anything to do with IS. Fairly read I do not think this post can be seen as support for a terrorist act within the meaning of s 100.1 of the *Criminal Code*.
23. The post on 4 June 2016 is clear as it relates to the applicant’s daughter Zeinab’s support of IS and the destruction of the United States (US) and its allies, but on a fair reading the applicant’s comment “LOL yes let them...” does not logically seem to relate to the part relied on by the prosecution to establish support of or advocacy for the support of terrorist acts, and rather on a fair reading appears to relate to US claims about that their strikes have “claimed 10,000 lives”.
24. I note that the informant agreed in his evidence that the applicant did not promote violent Jihad in her posts.
25. Turning to the applicant’s alleged statements to the complainant or in the complainant’s hearing. These are the complainant’s recollection of words used years after they were uttered in another language which has now been translated in circumstances where precise words matter. Even assuming the words uttered were as recorded, there is no description of the religious knowledge that the applicant taught foreign women. The applicant’s comment about guns can be seen as supporting IS

beliefs about weapons (whatever they may have been). The third statement is the applicant telling her mother that she believes she is on the right religious path and that her mother should join them. While these statements even without detail or proper context might be seen as supporting IS views in some regards, I am not satisfied that the words can be properly categorised as falling within the definition in s 100.1 of the *Criminal Code* to which I have previously referred.

26. Considered as a whole, I am not satisfied in the relevant sense that either individually or in combination that the applicant has made statements supporting or advocating support for terrorists acts within the meaning of s 100.1 of the *Criminal Code*.
27. Thus, I am not satisfied that s 15AA(2A)(b) of the *Crimes Act* is applicable, meaning that the applicant is prima facie entitled to bail unless the prosecution establishes a risk which is unacceptable and the risk cannot be made acceptable via the imposition of conditions.

### **Unacceptable risk**

28. Section 4E of the *Bail Act 1977* (*'the Act'*) provides, as relevant to this matter:
  - (1) A bail decision maker must refuse bail for a person accused of any offence if the bail decision maker is satisfied that—
    - (a) there is a risk that the accused would, if released on bail—
      - (iaa) commit a Schedule 1 offence or a Schedule 2 offence; or
      - (i) otherwise endanger the safety or welfare of any other person, whether by committing an offence that has that effect or by any other means;
    - and that
    - (b) the risk is an unacceptable risk.
  - (2) The prosecutor bears the burden of satisfying the bail decision maker—
    - (a) as to the existence of a risk of a kind mentioned in subsection (1)(a); and
    - (b) that the risk is an unacceptable risk.
  - (3) In considering whether a risk mentioned in subsection (1)(a) is an unacceptable risk, the bail decision maker must—
    - (a) take into account the surrounding circumstances; and
    - (b) consider whether there are any conditions of bail that may be imposed to mitigate the risk so that it is not an unacceptable risk.

29. In *Re Asmar*<sup>1</sup>, Maxwell P noted the following in relation to any risk assessment:

As to the risk of criminal behaviour if bail were granted, it is widely recognised that the prediction of future dangerousness is notoriously difficult. Making predictions is difficult enough when the person has been found guilty of relevant, recent criminal conduct. How much more difficult it is when – as will always be the case with a bail application – the applicant for bail is presumed to be innocent of the matters charged.

30. I now turn to the allegations in this matter.

### **Evidence of informant Federal Agent Clendenning**

31. It was Federal Agent Clendenning's evidence that:

- a. In November 2017, the Australian Federal Police (AFP) commenced an investigation into the offshore activities of the Ahmad family.
- b. On 14 December 2013, the Australian Government listed Islamic State's precursor – Islamic State of Iraq and the Levant (ISIL) or Islamic State of Iraq and Syria (ISIS) – as a prescribed terrorist organisation pursuant to s 102.1 of the *Criminal Code*. On 11 July 2014, ISIL was listed as Islamic State (IS) in that declaration.
- c. IS is premised upon a deeply conservative, fundamentalist interpretation of Islam, with jihadism and a belief in the importance of armed struggle and expansion of its global authority.

### **Persecution of Yazidis**

32. Federal Agent Clendenning said that on 3 August 2014, IS launched an attack across the Sinjar district of northern Iraq targeting members of the Yazidi community. IS killed men and enslaved, raped, and committed other abuses against Yazidi women, girls and younger boys. The system of ownership of humans and the abuse was authorised, executed and promoted by IS.

33. He noted that a report from the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD), estimated 6,800 Yazidi women and children were captured by IS. IS maintained a detailed inventory of Yazidi slaves who were sold through 'sabaya' (slave) markets with sale contracts and

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<sup>1</sup> [2005] VSC 487 at [25]

notarisation by the Sharia courts. Upon sale, slaves became personal property. Paragraph 15 of the prosecution summary details articles and instructions relating to slaves and includes statements authorising and/or encouraging sexual offences. These publications were ongoing.

### **The Ahmad family**

34. In relation to the Ahmad family, it was Federal Agent Clendenning's evidence that on 24 August 2014, the applicant Kawsar Ahmad, a now 54-year-old woman, departed Melbourne with her three youngest children and stated on her outgoing passenger card that she intended to spend two months in Türkiye.
35. The applicant's husband, Mohammed Ahmad, had departed Australia on 24 May 2013 and stated on his outgoing passenger card that he intended to spend one month and six days in Türkiye. He has never returned to Australia.
36. On 4 November 2014, the applicant's daughter, Zeinab Ahmad, a now 31-year-old woman, departed Australia with her husband, Abu Dawod, stating on her outgoing passenger card that she intended to spend seven months in Türkiye.
37. The prosecution alleges that the applicant, her husband and other family members resided in Türkiye between the date of their arrivals and December 2014 before entering Syria as a family unit in approximately January 2015.
38. After leaving Australia, it is the prosecution case that both the applicant and other family members remained in contact with persons in Australia including relatives and other persons. Relatives and others in Australia received various messages, videos and photos which, the prosecution alleges, both place the family members in Syria, and demonstrate their support of IS.

### **The applicant**

39. More specifically in relation to the applicant, the prosecution allege that upon departing Australia she communicated with family members primarily via Facebook messenger. The prosecution rely on a number of those communications to evidence both where she was living, and her support of IS and its actions.
40. Federal Agent Clendenning said that between March and December 2016, the applicant made a number of Facebook posts which are listed at paragraph 39 of the prosecution statement of facts, to which I have already referred.

41. Further, the prosecution rely on photos and videos taken in Syria depicting family members wearing military attire, carrying weapons, saluting with right index finger pointing skywards, as well as photos and videos of IS propaganda items at locations where family members in Syria were living. There were also videos sent and in one video taken by Zeinab, the applicant asks to see the video, expressing concern about the room, which I note contained an IS flag.
42. The prosecution says the applicant and her daughter Zeinab surrendered to Kurdish forces in 2019 and thereafter were detained in Kurdish refugee camps where they remained until their travel to Australia and subsequent arrest on 7 May 2026.

### **Charges before the court**

43. Turning to the facts alleged by the prosecution relating to the charges before the Court.
44. The prosecution say the complainant in this matter is of Yazidi heritage and the Yazidi people are a minority ethnic and religious group who were, at the relevant time, persecuted by IS.
45. Female Yazidis, many of whom were forcibly detained and subjected to sexual slavery were referred to as 'sabayas'. These women were traded amongst IS members.
46. Between Monday 2 September 2019 and Thursday 5 September 2019, Detective Sergeant Greg Adams and Detective Leading Senior Constable Thi Nguyen obtained a witness statement from the complainant in Duhok, Iraq, in which she says that:
  - a. She is a Yazidi woman, and she was taken captive by IS on 15 August 2014 from Kojo village, in Northern Iraq.
  - b. She was 15 years old at the time, was separated from her family and taken to Mosul, by her captors, where she was sold as a sabaya, or sex slave.
  - c. Her mother and brother were executed by IS, whilst her sister was also sold as a sabaya.
  - d. During the almost five years she was captive she was traded among approximately seventeen different IS members and subjected to constant physical, sexual and emotional abuse.

### **The Ahmad family**

- e. Around the time of Ramadan in 2017, the complainant was bought for \$10,000

USD by an Australian Lebanese male she knew as Abu Umar al-Lubnani, whom she identified as Mohammed Ahmad.

- f. She said, she was first taken by her previous owner to Mohammed's residence in Mayadin to be 'inspected' by him and his wife 'Kawther' – the applicant.
- g. When she got to their house, Mohammed and Kawther looked at her face and she had to remove the 'Daesh' (a term commonly used to refer to IS) black dress required to be worn by women under IS. She was also wearing a women's 'dish dash' – a traditional Middle Eastern robe – which she did not have to remove.
- h. Mohammed was to buy her for marriage and serving, and Kawther agreed.
- i. Two days after being 'inspected' her previous owner took her back to Mohammed and Kawther's house in Mayadin, where the sale was finalised. She said she was sold for \$10,000 USD.
- j. She did not see any money change hands, and there was no paperwork. However, other people knew that she was 'married' to Mohammed as he would tell them. He was allowed to take everything from her and allowed to deal with her in the same way he would deal with his other wives.
- k. When Mohammed bought her, he said to her, "I bought you for the purpose of raping and at the same time serving the home." Kawther was next to Mohammed when he said this to her.
- l. Following the sale, Mohammed introduced her to the family and told them he had bought her for sex and to do housework. Kawther was relaxed and didn't say anything.
- m. The Ahmad family lived in Raqqa prior to living in Mayadin.
- n. Mohammed had two wives, the first being an Australian named Kawther – the applicant. They had five daughters and two sons. Mohammed's second wife was Syrian, named Bassema.
- o. Whilst they were in Mayadin, all five of Mohammed's daughters lived with him and Kawther, as well as the husband of Mohammed's daughter Zahra, Abu Shayba, whose real name is Muhammad.
- p. She said that she lived in a bedroom with the applicant's daughter Zeinab and was not free to leave. The doors were not locked but she had nowhere to go or

anyone to go to. She did not know where to go and did not have a phone.

- q. She was allowed to go outside only with the Ahmad women when they would let her. When she was outside, she had to wear 'Daesh'.
- r. She did all the daily household work but not the cooking. She also cleaned inside all the bedrooms.
- s. She said Mohammed often wore military clothes, including a hat with the Daesh flag on it and Arabic writing which read, "There is no god, only Allah". He also wore body armour covering his chest, back and sides. He owned a rifle and a Glock pistol.
- t. Mohammed would go off to fight battles with his son Abu Omar and son-in-law Abu Dawod, who were both Australian.
- u. Mohammed physically assaulted her many times. On one occasion, Mohammed began to hit her with his hands and dragged her down two flights of internal stairs in their house, located in Hajin, by her hair. There were about thirteen stairs in the first set and six in the second. She said she received back pain and bruising all over her back which lasted for more than ten days.
- v. Two days after Mohammed bought her, he came into her bedroom and said, "I bought you for sex and housework."
- w. She says he attempted to sexually assault her for about a month after he bought her. Mohammed would come into her room many times, but she rejected him and didn't allow him to do it.
- x. She rejected Mohammed by shouting and pushing him away. She tried multiple times to push him away and shouted, including shouting for her mother.
- y. She shouted as loud as she could on these occasions. Mohammed's family were all in the house at the time, including the applicant. They would have heard her shouting on these occasions.
- z. She said Mohammed sexually assaulted her many times.
- aa. The first time was when they moved from Mayadin to Hajin. Mohammed came into her bedroom, took off all his clothes and pushed her onto the bed. Mohammed kissed her on her lips, face, neck and breasts.

- bb. She then described an act of rape which I will not detail here.
- cc. Mohammed received a salary and it was paid in cash.
- dd. Mohammed was scared of fighter jet bombardments and moved houses a lot. He had Daesh ID and employment cards. He showed his ID card whenever they travelled between villages and checkpoints controlled by Daesh.
- ee. Each one of the family carried both Daesh and Australian ID. The Daesh ID card showed their names, dates of birth, where they came from, what sort of job they did and displayed the Daesh flag. Mohammed's card said, "civil military".
- ff. The complainant said that the Ahmad family did not try to escape and did not want to go to another place that was not controlled by Daesh. The family liked Daesh.
- gg. There were Daesh flags inside Mohammed's house. Mohammed brought them into the house from Daesh headquarters. The family said the Daesh flag was their flag.
- hh. Kawther did not wear a Hijab inside the house.
- ii. The complainant said that Kawther spoke to her (the applicant's) mother telling her they were on the right religious path and she should join them.
- jj. Kawther had a laptop and there was an internet Café that she would attend.
- kk. Kawther was a member of Daesh and when Daesh foreign women members came to Al-Raqqa, she taught them religious knowledge at the Al Shar'l institute.
- ll. She said she saw a very big amount of paper money in the house and Kawther told her it was Daesh's money.
- mm. Kawther would not let the complainant practice her own religion. Kawther taught her to read the Quran.
- nn. Kawther said, "I want you to be taught to use weapons according to the Daesh beliefs, whatever they do we have to do the same".
- oo. Kawther treated her badly and often threatened her with beatings or the prospect of being sold. She would ask Mohammed to beat her and would yell and shout at her over trivial things. The complainant went on to describe other

members of the family possessing Glock pistols and supporting Daesh.

pp. This included a video of Omar, Mohammed's son, making a suicide vest. I note that the soft black cap worn by the applicant's son-in-law Dawod in one of the images has words interpreted as "pledge of death" or "allegiance to death". The evidence is that this term is a reference to a pledge made by a special battalion composed of suicide infiltrators who will either fight to the death or explode themselves. These images were seized at Dawod's family home in Australia.

47. The informant, Federal Agent Clendenning, said further in oral evidence:
- a. The brief was to be served on Friday 19 June 2026 (I note it was served on that date).
  - b. The requested social media material from Meta should be received in two to four months.
  - c. Other enquiries are ongoing including in relation to digital material.
  - d. The disclosure process has already commenced and requests were made to other government agencies in February 2026.
  - e. He anticipates he will have some disclosure material within a few months.
  - f. He has not commenced enquires overseas. This would include government and non-government agencies – no time frame is available as to the provision of this material.
  - g. He has spoken to the complainant and special witness after the arrest of the applicant and the complainant expressed extreme fear, distress and a loss of sense of justice if the applicant was to be granted bail. She said she would not feel comfortable coming to Australia. The special witness said things similar to the complainant and expressed her frustration.
  - h. Both the complainant and the special witness are located offshore and not in the Middle East region.
  - i. He had spoken to some Yazidi community members who were in Australia but not in Victoria who expressed fear and said they did not want that ideology in Australia and that they would be fearful of coming across the applicant if she was bailed.

- j. He has seen material in relation to the applicant's proposed residence and who would be residing there, and he has no concerns in that regard.
- k. He is aware of proposed conditions, and that they do not allay his concerns.
- l. He noted that the applicant travelled to Syria and has shown alignment with IS.
- m. He said he has concerns about her espousing her ideology to others including in her home.
- n. As regards aspects of the psychological report of Dr Davis (which I shall turn to in due course) containing renunciation of ideology, the informant said they are self-serving statements and the applicant does not talk about what her beliefs were. He says there is no evidence of renunciation since the applicant's surrender to Kurdish forces and prior to her speaking to Dr Davis. I note of course that the respondent bears the onus in relation to unacceptable risk and that there is no evidence of the applicant's beliefs following her surrender to Kurdish forces in 2019.
- o. He says that the applicant is an unacceptable risk of endangering the safety or welfare of a member of the public as detailed at paragraph 105 of the prosecution statement of facts, including because of her:
  - i. Travel to and residence in Syria
  - ii. Statements and other expression of support for IS
  - iii. Lack of renouncement
  - iv. Evidence of her joining IS and having an IS identification card
  - v. Her possession of weapons
  - vi. Her role as a religious instructor in Syria which would have involved teaching radical views of IS
  - vii. The likelihood of her spreading radicalised teaching in Australia
  - viii. The alleged acts are consistent with the applicant being a member of and closely aligned to IS.

48. In cross examination the informant said:

- a. The basis of his concerns is around the applicant's beliefs and going to Syria and

while she was there.

- b. He agreed he is not aware of any statements made by her while in the Internally Displaced Persons (IDP) camps that were supportive of IS ideology, but he remains concerned about the time she spent in the camp with others who were there.
- c. He agreed the applicant was wanting to come to Australia.
- d. She was not in the IDP camps with any men from IS.
- e. In relation to delay – relevant agencies are anticipated to be able to give an indication of timeframe for providing relevant material at the committal mention in late July.
- f. He said he does not know what information the United Nations or the Kurdish authority hold. He not proposing to request any information from the Kurdish authority.
- g. He will make further enquiries with various organisations.
- h. He agreed it is very difficult to search for evidence, for example in Mayadin.
- i. The applicant has no prior convictions.
- j. The applicant had been to Türkiye before.
- k. The applicant was previously involved with Preston Mosque.
- l. He believes the husband of the applicant is in a detention facility in Iraq.
- m. The informant was taken to paragraph 39 of the statement of facts and relating matters relied upon to establish risk. He agreed that the applicant did not promote violent Jihad in her posts.
- n. As regards the complainant's statement, the informant agreed that she said Mohammed married her the same day he bought her and when Mohammed sold her all the family came to say goodbye and told her if it was their decision they did not want her to go.
- o. In relation to the applicant teaching religious studies, the informant agreed that the only evidence of this occurring in Syria comes from the complainant.
- p. He agreed that the only evidence that the applicant had weapons comes from

the complainant.

- q. As regards conditions which might ameliorate risk, the informant agreed:
- i. There are no issues with the proposed address.
  - ii. That his concern regarding the applicant's time spent in the IDP camps is that she was there with IS-aligned persons.
  - iii. That all social media posts and communications upon which he relies are from time the applicant was in Syria.
  - iv. In relation to the applicant's renouncement of IS to Dr Davis and through her counsel, that he still has concerns that she will preach violent Jihad to others.
- r. The informant disagreed that risk would be reduced by a condition that she does not attend the Preston Mosque or any other mosques as she will still have contact with other persons.
- s. The informant agreed that there is no evidence of the applicant trying to persuade others to join violent Jihad.

### **Arrest**

49. The applicant was arrested at Melbourne airport on 7 May 2026 upon returning to Australia by her own means on a commercial flight.
50. She was conveyed to AFP headquarters where she was deemed unfit to be interviewed. She has been in custody since her arrest.

### **Evidence relied upon by the applicant**

51. The applicant's legal practitioner Sally Vardy deposes the following in her affidavit dated 15 June 2026:
- a. The applicant has a residence available to her with her mother at an address known to the Court and the parties. The property is owned and managed by community housing who have been notified that the applicant will be residing there if granted bail.
  - b. Mr Abbas, the applicant's brother, can provide a surety in the sum of \$75,000 by way of equity in his home. I note this was confirmed in oral evidence by Mr Abbas

who also said that he would see the applicant every day and pay the fees related to any physical or mental health treatment in the community. He says he and his family have never supported IS.

- c. The applicant has a network of family members who will support her in the community.
  - d. The applicant does not propose to attend any mosque upon her release.
  - e. The applicant has a close relationship with her orphaned granddaughter and played a significant role in her care in the IDP camps. The child currently resides with the applicant's daughter and other grandchildren.
  - f. Ms Vardy says that the applicant has experienced acute anxiety while in custody causing her to be transported to hospital but not admitted. If granted bail, she would see her general practitioner and a tentative appointment has been made for 29 June 2026 for the purposes of a check-up and obtaining a mental health care plan. Further, in the community the applicant would engage with Dr Kate O'Brien at Embrace trauma therapy.
  - g. Correspondence has been provided from Dr O'Brien (exhibit D4) confirming her willingness to treat the applicant in the community should she be released.
52. I have had regard to the report of Dr Michael Davis, forensic psychologist, dated 11 June 2026, (Exhibit D3a). Dr Davis saw the applicant over 322 minutes for the purposes of testing and opinion, and he also spoke to her brother Mr Abbas.
53. The applicant told Dr Davis she last saw her husband in 2019, and she believes he is safe and well in a prison in Iraq. She wrote him a letter while she was in an IDP camps, she said she does not know if she misses him and does not know if there is any space for him right now. I was informed by counsel that the applicant has commenced divorce proceedings in Australia.
54. The applicant denied any suicidal ideation noting that she is Muslim and she would go to hell she said "death is better for me, but the children overpower that, I want to see them flourish".
55. The applicant reported to Dr Davis a history of anxiety and panic attacks dating back to childhood. She described her time in the Middle East as "four years of torture and then seven years of having to have the strength to keep going".

56. In his report Dr Davis diagnoses the applicant as suffering from:
- a. Post Traumatic Stress Disorder (PTSD) noting she has prominent symptoms including intrusive thoughts, flashbacks, trying to avoid thinking about past trauma, impaired memories, negative emotions, hyper vigilance and an exaggerated startle response. He opines this is a reaction to traumatic events both in Australia and overseas.
  - b. Persistent depressive disorder with a major depressive episode. The major depressive episode being largely a reaction to separation from her children. He notes there are also some symptoms of reactive depression including leaden paralysis. The applicant told Dr Davis she was first prescribed anti-depressants after the birth of her third son after being diagnosed with depression and anxiety.
  - c. Generalised anxiety disorder and panic disorder.
  - d. Dependent personality disorder – noting the applicant exhibited prominent symptoms in this regard. She said, “I just can’t do it, I can’t be alone”. She told Dr Davis she requires her daughters’ advice to make decisions, she said she pretty much does not have a mind of her own. Dr Davis said her chronic difficulties with anxiety and depressed mood have manifested on a foundation of maladaptive personality features. She had poor childhood attachments and limited friendships.
57. Dr Davis asked the applicant about her current views of IS she said, “now and then it’s been the same view, I’ve never agreed with their beliefs, like kill, kill, kill”. She said in the IDP camps neither she nor her children covered their faces.
58. The applicant went on to say to Dr Davis “I’m not a supporter of Islamic State, my son was brainwashed...the worst thing is he got his little brother involved as well.” She said, “I hate them regardless” and “my husband was (pulled in) because of my son”.
59. Dr Davis went on to administer several tests described at paragraphs 66 and following of his report. He noted on more than one occasion that there is no validated way of assessing the long-term risk of extremism / terrorism recidivism.
60. However, he notes that such threat assessment tools may be of limited guidance and further that statistical base rates of violence in the relevant population are of significant importance in the modern practice of risk assessment (paragraph 112), and

further that the base-rate of extremist recidivism is very low by absolute standards, making risk assessment exceedingly difficult (paragraph 116).

61. He says “it is my opinion that there is nothing blatant that would suggest that Mrs Ahmad is not one of the 97.1 to 98.4 percent of extremist offenders who do not re-offend, especially as she is now back in Australia. There are no current proximal warning behaviours, and all her currently expressed attitudes indicate a vociferous denunciation of Islamic State activity and ideology” (paragraph 145).
62. It was Dr Davis’ oral evidence that:
  - a. The applicant’s mental health conditions are very diagnostically complex.
  - b. She has a major depressive disorder that he considers to be moderate to severe.
  - c. She does not want to commit suicide, and says it is against her religion, however she sometimes “wishes she was dead” and admits death would be better but she can’t leave her children behind.
  - d. In relation to the diagnosis of PTSD, that she meets full criteria for the condition and has dissociative symptoms.
  - e. She has experienced depressed mood for significant parts of her life dating back to her childhood.
  - f. The major depressive episode occurring in reaction to her current circumstances results in ‘double depression’.
  - g. Should she be granted bail, Dr Davis is of the opinion that the major depressive episode will improve, and she will likely return to the level of dysthymia or chronic mood difficulty that she has experienced for much of her life.
  - h. She is a very unwell woman.
  - i. The referral provided to treatment in the community from Dr Kate O’Brien, a clinical and forensic psychologist with a speciality in trauma, would seem an ideal solution to the treatment difficulty currently experienced.
  - j. Dr Davis is of the view that her psychological prognosis is significantly better if she were to be in the community.
  - k. She is a very dependent individual.
  - l. Dr Davis approached assessment of the risk of the applicant engaging in further

extremist offending with reference to the statistical base rates of 1.6 to 2.9 percent of people convicted of extremism who go on to reoffend.

- m. He said that he looks for things that would suggest that a person is not in the 97.1 to 98.4 percent of people that do not reoffend.
- n. The Terrorist Radicalization Assessment Protocol-18 (TRAP-18) tool takes what are called 'proximal warning behaviours' and looks at which factors were present at the time of the alleged offending, and which are present now.
- o. He stated that on the basis that the summary of facts document is true as alleged, there is potential evidence of the applicant having two of the eight proximal warning behaviours during her time in Syria, which were identification and fixation.
- p. That these two proximal warning behaviours are no longer present, and there is nothing obvious in the applicant's presentation now and her expressed attitudes to suggest she is not one of the approximately 98 percent that will not go on to reoffend.
- q. Dr Davis noted that the applicant detailed her favourite Surahs, or chapters, in the Quran, which were provided to him without prompting, and that she described how those Surahs are different to what IS believes.
- r. In relation to the methodology of assessing risk, Dr Davis noted that he looked for any 'blatant indication' that there were any lingering beliefs of extremism and did not find any such indication.
- s. He noted he would think it very unlikely that such views would resurface, and that he found no indications that the applicant was concealing any ongoing devotion or attraction to IS.
- t. Dr Davis stated that the applicant's daughters and grandchildren are her 'reason for being'.
- u. He noted in relation to his professional experience that he has not run deradicalisation programs or treatment of radicalisation, but that he has been involved in assessing offenders who have been radicalised since the first Commonwealth detention order application.
- v. He agreed that the applicant was radicalised at some point during her time in

the Middle East.

- w. In relation to the applicant's social media posts following her son's death, he said that these could be perceived as her being 'well and truly into the cause' or alternatively that she is 'trying to make some sense of her son's death'.
- x. That following the death of two sons who committed acts that they perceived as martyrdom, he considers the applicant very unlikely to commit suicide as it is against her now more moderate branch of Sunni Islam, and due to the anger she holds towards IS as a result of her sons' deaths.
- y. Dr Davis agreed that she is a dependent personality type, but that he does not think she is at risk of being re-radicalised by others because of the depth of anger and hatred she holds towards IS.
- z. He described re-radicalisation as 'vanishingly rare'.

63. In cross examination Dr Davis stated that:

- a. The applicant now holds a more moderate view of Islam.
- b. He is not an expert specifically in the area of radicalisation or deradicalisation but is an expert in risk assessment and has been assessing radicalised people for some time.
- c. He agreed that there are no validated instruments or approaches for the long-term risk assessment of extremist offending.
- d. He considers TRAP-18 to be the only threat assessment tool that is relevant to this assessment, and he has looked at the proximal warning behaviours present and the time of offending and now.
- e. In consultation with the author of TRAP-18 he formed the view that the proximal warning behaviours can add to a risk assessment and has used the tool in that way.
- f. The tool can try to tease out anything that would suggest somebody is not in that approximately 98 percent that do not go on to do anything again.
- g. Fixation and identification behaviours that were found in relation to the applicant are the most prominent behaviours identified in people that have been national security concerns that do not end up actually committing

offences.

- h. In relation to the applicant's denial that she ever held extremist beliefs, Dr Davis said that denial can be quite protective amongst some offenders, particularly those that are antisocial, as a way of distancing themselves from things that they are ashamed of now.
- i. He said that his approach is not to weigh denial in either direction, and just consider it, because if you put all studies relevant to denial together, they average out to being zero.
- j. He would not hang a risk assessment on denial.
- k. He accepts that in assessing the applicant's denial against the material in the statement of facts, it is inconsistent with what was previously expressed.
- l. That in relation to the statistical base rates noted in his report, that these figures are based on two studies from Hodwitz<sup>2</sup> and Renard<sup>3</sup>, being in his view the best available evidence for extremist recidivism.
- m. That he weighs heavily on the Hodwitz study, which had a large sample size, with quite a number of people being released into the community and also that it was in a peer reviewed journal.
- n. He said that the predictive validity of the currently available tools is simply not known, but that can go in both directions.
- o. That the applicant was assessed and was found not to be psychopathic, and that she does not have a lot of risk factors for offending in general.
- p. That the applicant's two proximal warning behaviours – fixation and identification - were present a decade ago and are not present now.
- q. That there is simply nothing to suggest that she's not one of the 98 percent that do not go on to reoffend.
- r. That he takes a conservative approach to risk assessment, and that he looked hard for things that would give him concern in relation to the applicant and could

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<sup>2</sup> Hodwitz, O. (2019). The terrorism recidivism study (TRS): Examining recidivism rates for post-9/11 offenders. *Perspectives on Terrorism*, 13(2), 54-64.

<sup>3</sup> Renard, T. (2020, April). Overblown: Exploring the gap between the fear of terrorist recidivism and the evidence. *CTC Sentinel*, 13(4), 19-29 (Combating Terrorism Center at West Point, U.S. Military Academy).

not find anything.

- s. He said that the alleged offending is clearly very serious, and that he has proceeded on the basis that the applicant committed the offending the way it had been described.
  - t. That the seriousness of previous offending is relevant in terms of the scenario for the most likely form of reoffending should it eventuate, but that it does not contribute to the likelihood of reoffending occurring.
64. The applicant's renunciation of IS was read by her counsel on his client's behalf:
- a. She is not a supporter of IS
  - b. She does not have anything to do with IS
  - c. She hates them regardless
  - d. She wants to have nothing to do with them
  - e. She wants her children and grandchildren to have nothing to do with them
  - f. She wants her children and grandchildren to live in peace.
65. The defence submit that this is an important step as the applicant wants to live a life free from extremism, violence and coercion.
66. The defence say this has relevance to what seems to be the primary risk asserted by the prosecution, that being that she will proselytize extremist views.

#### **Summary of the Respondent's opposition to bail**

67. The prosecution submit that bail should be refused and say that the applicant is an unacceptable risk of endangering the safety or welfare of any person, in this case being the public at large.
68. The prosecution rely upon the updated AFP summary of facts, the extracted social media evidence and the evidence called.
69. The prosecution submit that the applicant is an unacceptable risk of endangering the safety or welfare of any other person, whether by committing an offence that has that effect, or by any other means, and further that there are no conditions which could be imposed to ameliorate risk and make it acceptable and further that the defence evidence and submissions do not address risk or diminish concerns.

70. In supporting their contentions, the prosecution rely upon matters including:
- a. The nature and seriousness of the alleged offending, involving the purchase and enslavement of the complainant, deprivation of liberty, deprivation of religious freedom, control, violence and complicity in sexual slavery.
  - b. The circumstances of the offending, occurring in alignment with the persecution and genocide of the Yazidi people by IS.
  - c. The applicant's travel to and residence in Syria, under IS, who had been a declared terrorist organisation since 2014.
  - d. The applicant's sustained and active involvement with IS, indicated by her role as a religious instructor and holding an IS identification card.
  - e. The applicant's support for her husband who was a member of IS.
  - f. The applicant's familiarity with and possession of firearms while in Syria.
  - g. The applicant's support for IS ideology, with its fundamental hostility to non-believers and human rights.
  - h. The applicant's expressed support for IS activities, and for martyrdom in the cause of violent Jihad.
  - i. The applicant's engagement in slavery offences.
71. The prosecution say there is ample evidence of the applicant's alignment with and support of IS.
72. The prosecution submit that there is an unacceptable risk that the applicant personally or with others will either directly, or indirectly as a result of her encouraging ideology and acts by others, commit or result in the commission of a terrorist act or acts which makes the risk unacceptable by its nature.

### **Applicant's submissions**

73. Turning to the defence submissions, the defence submit that the prosecution have not established an unacceptable risk much less one that cannot be made acceptable with the imposition of conditions. They say any risk which may have been identified can be ameliorated to an acceptable level having regard to:
- a. The positive report and evidence of Dr Davis as it relates to risk.

- b. The health of the applicant resulting in her treatment needs.
- c. The fact that conduct alleged occurred in 2017 to 2018 and in the seven years the applicant was in the IDP camps there is no evidence that she attempted to or did support IS or violent Jihad and no evidence she advocated for terrorist acts to be performed in Australia or elsewhere.
- d. The statement of renunciation made by Counsel on the instructions of his client.
- e. As regards the applicant's renunciation, I pause to say that the weight of the evidence of renunciation is usually affected by the circumstances in which the statements were made, that is to lawyers and to Dr Davis in the context of an application for bail. On one hand these are the statements that one might expect from a person in the applicant's position. But to counter that I now have the evidence of Dr Davis who conducted an extensive assessment who said he found no indications that the applicant was concealing any ongoing devotion or attraction to IS. He described himself as a conservative risk assessor and said he was certainly looking for any evidence of this. I still place limited weight on the statements of renunciation themselves, but Dr Davis' opinion is unchallenged by other expert evidence and in my view capable of being relied upon.
- f. The defence submit that the evidence of denunciation is further relevant as those statements are now in the public arena and this is protective in itself.
- g. There is availability of mental health treatment for the applicant in the community and that Dr O'Brien is both well qualified and willing to provide that treatment.
- h. The time over which she has not seen her husband, being since 2019 to the present day, or had any communication with him and her having commenced divorce proceedings.
- i. The lack of risk arising from her presence in the IDP camps for over seven years given all the women and children in her family apart from the applicant and her daughter Zeinab who returned after living in the IDP camps are living in the community and no control or other order has been sought by the AFP or other authorities.

- j. The applicant has strong motives to be compliant with bail conditions including family and in particular her care of her orphaned granddaughter, her health needs and her wish to gain the trust of the community. In this regard the defence say that their client just wants to live a small peaceful local life.
- k. There is an available bail guarantor in the sum of \$75,000 from the applicant's brother.
- l. The applicant has no prior criminal history.
- m. The availability of bail conditions.

### **Surrounding circumstances**

74. Turning to the surrounding circumstances contained in s 3AAA of *the Act* I have had regard to the following matters:
- a. If the applicant was found guilty, she faces a maximum penalty of 25 years imprisonment on each offence. It is likely, and indeed probably inevitable, that if found guilty the applicant would be sentenced to a term of imprisonment and unlikely that the remand period, if bail is refused, would exceed that term of imprisonment. I note in this regard that the question of if and how the time in the IDP camps would be taken into account in any sentence is not a matter for resolution in this application.
  - b. The prosecution describes the charged offending as a serious example of these offences and as grave. All alleged offending, and in particular Charge 1, are in my view properly seen as very serious offences. Whether Charge 1 is a serious example of this offence I cannot say as it is the first time it has been prosecuted in Australia, but the fact that the applicant faces a maximum of 25 years imprisonment on each charge is clear evidence of parliament's view of the gravity of the alleged offending.
  - c. The strength of the prosecution case cannot be described as weak and this is conceded by the defence. It is not for this Court, on a bail application, to try to analyse the prosecution case in detail.
  - d. The applicant does not have a criminal history and has never been subject to any remand, bail or sentencing orders.
  - e. The applicant has special vulnerabilities due to her health concerns.

- f. The applicant has some caring responsibilities and significant attachment to her orphaned granddaughter.
- g. The informant gave evidence that he has spoken to the complainant and she would not want to be in the same country as the applicant if she was on bail. The complainant said she had an extreme sense of fear and distrust, and she would lose confidence in the legal system.
- h. It was further the informant's evidence that the special witness in these proceedings expressed a similar view and in the wider Yazidi community there is a high level of fear of contact, combined with anger and frustration amongst people who came here to feel safe and would feel they have no safety here if the applicant was granted bail.
- i. In cross examination the informant agreed neither the complainant nor special witness are in Australia at this time. I have weighted this evidence accordingly for the purposes of the bail application.
- j. As regards delay, the brief in the applicant's substantive matter was served on 19 June 2026 in accordance with standard timeframes, but it is not the complete brief. There are still numerous inquiries being made of government and non-government agencies both within Australia and offshore. The informant expects he will be able to provide further information in relation to likely timeframes at the committal mention at the end of July.

75. In this application, ss 3AAA(m) and (n) of *the Act* are relevant and I am required to consider them as part of the surrounding circumstances.

76. Subsection (m) requires I consider:

(m) whether the accused has expressed support for—

(i) the doing of a terrorist act; or

(ii) a terrorist organisation; or

(iii) the provision of resources to a terrorist organisation;

77. Subsection (n) requires I consider:

(n) subject to subsection (2), whether the accused has, or has had, an association with—

(i) another person or a group that has expressed support of the kind referred

to in paragraph (m); or

(ii) another person or a group that is directly or indirectly engaged in, preparing for, planning, assisting in or fostering the doing of a terrorist act; or

(iii) a terrorist organisation.

(2) A bail decision maker must not take into account the accused having, or having had, an association referred to in subsection (1)(n)(i), (ii) or (iii) unless the bail decision maker is satisfied that the accused knew—

(a) that the person or group had expressed support for—

(i) the doing of a terrorist act; or

(ii) a terrorist organisation; or

(iii) the provision of resources to a terrorist organisation; or

(b) that the person or group was directly or indirectly engaged in, preparing for, planning, assisting in or fostering the doing of a terrorist act; or

(c) that the group was a terrorist organisation.

78. The prosecution submit that the applicant has demonstrated support for IS by her words and actions and the applicant engaged in many relevant associations during her time in Syria and that her support of IS demonstrates an ideology that is fundamentally opposed to any who do not share their views. In my view this is a fair reading of allegations in the statement of facts.

79. As well as the matters contained in s 3AAA of *the Act*, s 15AB of the *Crimes Act* requires that I consider, relevant to this application, the potential impact on the complainant and witnesses if the applicant is released on bail. In this regard I refer to paragraph 74 (g), (h) and (i) above.

### **What is the risk alleged**

80. It is common ground that the risk to be assessed is a terrorism risk rather than risk that the applicant would commit a slavery associated offence in Australia. The prosecution submit that Charge 1 is an example of the applicant engaging in terrorism, as the conduct was committed intentionally or knowingly as part of a widespread or systematic attack directed against a civilian population, and this constitutes a form of terrorism, and say beyond this that the evidence shows adherence to radical ideology supportive of terrorism offending.

81. There are many forms of terrorism and many ways in which a person can participate in

the result. For the purposes of this bail application the risks to be considered include:

- a. Risk of the applicant committing a terrorist act.
- b. Risk of the applicant playing a role in preparation for a terrorist act to be committed by others.
- c. Risk that the applicant will seek to influence, support or encourage others to commit a terrorist act.
- d. Risk of the applicant radicalising another person who later commits a terrorist act. To put it another way, planting seeds of hate that lead to another committing a terrorist act.
- e. Risk that the applicant herself remains radicalised.
- f. Risk of the applicant being influenced by others who belong to or support terrorist organisations or hold radicalised views.

82. The nature of the consequences of an act of terrorism are such that a small risk of this kind of offending would likely be unacceptable.

83. I repeat that the prosecution bears the onus of establishing the risk, and that the risk is unacceptable and cannot be made acceptable via the imposition of bail conditions, and I have acted on that basis. Bail conditions of course only reduce risk if they are complied with and there is no evidentiary basis for concern that the applicant would not so comply.

84. The applicant told Dr Davis and made a statement through her counsel, that she renounces both IS and all violent extremism. The question is whether this is persuasive evidence. I note that in this regard I have already indicated that her words alone would not carry sufficient weight for me to act upon, but combined with the evidence of Dr Davis it carries more weight, given he has assessed her current beliefs and the future risk of her acting upon any radical views she may have held in the years she was in Syria. Dr Davis says that he did not find any blatant indication that the applicant held any lingering beliefs of extremism, and there is “simply nothing” to suggest that she is not one of the approximately 98 percent who do not go on to reoffend. And of those that do reoffend it is most often relatively minor offending rather than a further act of terrorism.

85. As I said in the matter of the applicant’s daughter’s application for bail, the risk of

terrorism and thus endangering the safety or wellbeing of members of the community lies within, in belief systems, thoughts and adherence to the views of others who distort religious teachings to promote hate. This is difficult to detect and prevent. The defence submit that any risk that might exist is moderated to an acceptable level by the applicant's conduct post 2019 and the fact that it is not alleged that during that period, including when she was in the IDP camps, she has said or done anything to show support for IS or terrorism. That is now a period of approximately 7 years and a demonstration of her current views. She has been positively assessed by Dr Davis who has significant relevant experience in risk assessment over many years and impressive qualifications in this area.

86. I have had careful regard to ss 1B(1) and (2) of *the Act*, as I must, and have acted on the basis that I must maximise, to the greatest extent possible, the safety of the community together with the importance of taking into account the presumption of innocence and the right to liberty.
87. In my view even a low risk of terrorism would likely be unacceptable. But having regard to all matters put and in particular the evidence of Dr Davis, while risk can never be entirely eliminated, on the evidence before me the risk is so low that with stringent bail conditions it can be made acceptable.
88. I propose to grant bail and thus turn to appropriate conditions.