

HIGH COURT DIVISION.

MEREDITH, C.J.C.P., IN CHAMBERS.

OCTOBER 30TH, 1914.

*REX v. RAE.

Criminal Law—True Bill for Murder — Application for Bail.

Application by the defendant for bail, made in the first instance at the Guelph assizes, on the 6th October, 1914, and renewed in Chambers, at Osgoode Hall, on the 25th October, 1914.

C. L. Dunbar, for the prisoner.

E. Meredith, K.C., and E. Bayly, K.C., for the Crown.

MEREDITH, C.J.C.P.:—The inclination of my judgment, when this application was first made, was, and, but for the decided cases, of the same character as this case, would still be, to let the prisoner to bail, if bail of a very substantial character were given.

In all applications for bail, resting in the discretion of a Court or of a judicial officer, in criminal cases, the paramount question should be whether the presence of the accused person, for trial in due course, would be assured if the application were granted; if that cannot be made sure by other means, then there is no other proper course but detention in close custody.

In determining whether a trial in due course would ensue without such detention, several circumstances must be taken into consideration, such as: the nature of the offence charged; the extent of the punishment that might follow upon a conviction; the nature of the evidence likely to be adduced at the trial, and so the probability of conviction or of acquittal; the character of the accused person, and of the ties, if any, which are likely to bind him to remain in the country and stand his trial; and the speed or slowness in which the prosecution is being carried on; as well as any other circumstances likely to affect the accused person's fear of conviction or confidence of acquittal; and his chances in an attempt to escape from trial.

The statute-law, in favour of a prisoner, bearing upon this subject, must also of course be borne in mind: I refer especially to the provisions contained in sec. 6 of the Habeas Corpus Act, 31 Car. II. ch. 2 (R.S.O. 1897, vol. 3, p. xxxix.); and sec. 699 of the Criminal Code, R.S.C. 1906, ch. 146.

*To be reported in the Ontario Law Reports.