

***Samandi v DPP (NSW)* [2020] NSWCCA 102 (9 June 2020) – New South Wales Court of Criminal Appeal**

‘Application for bail pending appeal’ – ‘Protection order’ – ‘Reasonable prospects of success’

Charges: Assault x 3; Assault occasioning actual bodily harm x 6; Intentionally damaging property x 1; Contravening a DFV protection order x 1.

Proceedings: Application for bail pending application for leave to appeal.

Facts: The male applicant plead guilty to offences committed against his wife and has now lodged an application for leave to appeal against convictions and sentences, contending his instructions to withdraw his pleas were not followed. The Crown case against the applicant was ‘very strong’. The applicant also contends that his lawyers failed to inform the sentencing judge about issues related to his health.

Issues: Whether special exceptional circumstances justify the grant of bail.

Decision and reasoning: *Special or exceptional circumstances established. Application for bail granted subject to conditions.*

The applicant has not established that he has reasonable prospects of success on his conviction appeal. However, the applicant’s contention that the consideration of additional medical evidence could result in him being resentenced is ‘reasonably arguable or ... at least [has] some reasonable prospects of success’ on appeal [34]. Further, although the applicant’s submission that being in custody prevents him from properly preparing for appeal as an unrepresented litigant does not ‘qualify as special or exceptional circumstances standing alone’ [33], it can be considered as part of a combination of factors.