

ENTRY ORDER

SUPREME COURT DOCKET NO. 2002-078

FEBRUARY TERM, 2002

State of Vermont	}	APPEALED FROM:
	}	
v.	}	District Court of Vermont,
	}	
Jay C. Houle, Sr.	}	Unit No. 1, Windham Circuit
	}	
	}	DOCKET NOS. 100 -102-1-02;
	}	
	}	186-188-2-01WmCr
	}	

In the above-entitled cause, the Clerk will enter:

Defendant is charged with multiple counts of selling cocaine and heroin, and possessing heroin and marijuana. He has an extensive record including felony convictions for selling cocaine and unlawful mischief. He is a lifelong resident of Windham County with a good record for appearing in prior criminal proceedings.

The court set bail at \$75,000 cash for all charges, and defendant has appealed to the undersigned Justice, citing his inability to provide the required bail amount, his ties to the community and his history of compliance with orders to appear. The State opposes any reduction in the amount because of the seriousness of the charges, defendant's taped confession and his extensive trips outside Vermont in connection with his drug sales business. The district court refused to lower the bail amount because of the great risk of flight and because defendant "is a self-confessed addict with the need to probably continue to support his habit, and the means, as the state has argued, to cross state lines to do so."

I must affirm the district court order if I find it is "supported by the proceedings below." 13 V.S.A. § 7556(b). At some point, a high and unmeetable cash bail requirement, even for a defendant who is charged with very serious crimes and faces a long period of incarceration, becomes a denial of defendant's constitutional right to bail. See State v. Duff, 151 Vt. 433, 436 (1989).

I conclude that the circumstances are adequate to support the bail order. Although defendant is based in Vermont, he has traveled regularly outside the state, and may have to continue to do so to maintain a supply to feed his heroin addiction. The charges are far more serious than anything defendant has faced in the past and are likely to lead to a substantial period of incarceration if proven. I conclude that the limitations on defendant's ties to Vermont, the difficulty of having him remain in the community with a high need for heroin, and the risk of flight warrant substantial cash bail, and the court acted within its discretion in setting the amount.

Defendant has asked that I view a videotape made at the time of his arrest in resolving this appeal. I can consider additional evidence only if I find the bail order is not supported by the proceedings below. 13 V.S.A. § 7556(b). Because I found it was supported, I cannot grant defendant's request.

Affirmed.

FOR THE COURT:

John A. Dooley, Associate Justice