

IN THE CHILDREN'S COURT OF VICTORIA

CRIMINAL DIVISION

MPO (a pseudonym)

v

COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

JUDGE: HIS HONOUR JUDGE VANDERSTEEN

DATE OF HEARING: 2 & 7 July 2026

DATE OF DECISION: 16 July 2026

CASE MAY BE CITED AS: Application for bail by MPO (a pseudonym) [2026] VChC 2

REASONS FOR DECISION

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Catchwords: CRIMINAL LAW – bail – child accused charged with Commonwealth terrorism offences – exceptional circumstances under s 15AA *Crimes Act 1914* (Cth) – protection of community paramount consideration – best interests of child primary consideration – application of ss 3AAA and 3B *Bail Act 1977* (Vic) – alleged collection of extremist and explosives-related material – expert forensic psychiatric evidence – autism spectrum disorder TRAP-18 structured professional judgment assessment – distinction between ideological interest, research and imminent operational planning – no evidence of active planning, acquisition of means or immediate intent – Youth Justice assessment and incomplete PIM assessment – proposed EBSS supervision and electronic monitoring – stringent bail conditions – unacceptable risk rendered acceptable – bail granted – stay following notification of prosecution appeal

Legislation Cited: ss 3LA, 15AA *Crimes Act 1914* (Cth); ss 3AAA, 3B, 4D, 4E *Bail Act 1977* (Vic); s 101.5(1) *Criminal Code 1995* (Cth); s 233(1)(b) *Customs Act 1901* (Cth); *Bail Act 2013* (NSW)

Cases Cited: *DPP (Cth) v Khan* [2021] VSC 224; *Application for bail by Timothy Logan* [2019] VSC 134; *Re Gloury-Hyde* [2018] VSC 393; *Re CT* [2018] VSC 559; *Hammoud v DPP* [2006] VSC 516; *Re JF* [2020] VSC 250; *Re JO* [2018] VSC 438; *Re AM (a pseudonym)* [2025] VSC 637; *AB v DPP (Cth)* [2016] NSWSC 1042; *Re Application for Bail by Brookman* [2020] VSC 470

APPEARANCES:

For the accused (MPO): Mr C. Tom

For the CDPP: Mr A. Norris

HIS HONOUR:

**Application**

1. This is an application for bail.
2. The application is opposed.

**Applicable law**

3. MPO is a child and has been charged with a “*terrorism offence*” pursuant to s 15AA *Crimes Act 1914* (Cth). Bail must not be granted unless exceptional circumstances exist to justify bail. The burden rests upon MPO to establish exceptional circumstances.
4. Further, when considering whether exceptional circumstances exist in the case of where MPO is a child pursuant to s 15AA(3AA) *Crimes Act 1914* (Cth) the protection of the community is the paramount consideration and the best interests of the child are a primary consideration.
5. If exceptional circumstances are established, bail must still be refused if the Court is satisfied there is an unacceptable risk that the child in accordance with s 4E of the *Bail Act 1977* (Vic) if released, would:
  - (a) endanger the safety or welfare of any person;
  - (b) commit a Schedule 1 or Schedule 2 offence;
  - (c) fail to appear; or
  - (d) otherwise fall within the risks identified by the *Bail Act*.
6. The prosecution bears the burden of establishing both the existence of the risk and that the risk is unacceptable.
7. In considering the application for bail, the Court must consider surrounding circumstances set out in s 3AAA and as MPO is a child, s 3B of the *Bail Act 1977* (Vic).
8. When determining whether any identified risk is unacceptable, the Court must consider the surrounding circumstances under s 3AAA. Those include:
  - (a) the nature and seriousness of the alleged offending;
  - (b) the strength of the prosecution case;
  - (c) criminal history;

- (d) compliance with previous bail;
  - (e) whether the accused was already on bail or subject to other orders;
  - (f) personal circumstances and background;
  - (g) vulnerabilities, including the fact that the accused is a child;
  - (h) the availability of supports and supervision in the community; and
  - (i) whether any likely sentence would be exceeded by time spent on remand.
9. Because MPO is a child, the Court must also consider the matters set out in s 3B, these include:
- (a) the need to impose on the child the minimum intervention required in the circumstances; and
  - (b) the need to strengthen and preserve the relationship between the child and the child's family, guardians or carers; and
  - (c) the desirability of allowing the living arrangements of the child to continue without interruption or disturbance; and
  - (d) the importance of allowing the education, training or employment of the child to continue without interruption or disturbance; and
  - (e) the need to minimise the stigma to the child resulting from being remanded in custody; and
  - (f) the likely sentence should the child be found guilty of the offence charged; and
  - (g) the need to ensure that the conditions of bail are no more onerous than are necessary and do not constitute unfair management of the child.

### **Factual Background and Charges**

- 10. Through the informant the remand summary was read and tendered.
- 11. On 4 March 2026 a parcel described as a “*custom printed flag*” addressed to MPO and sent from China, arrived at Melbourne International Airport.
- 12. On 13 March 2026 the parcel was examined by Australian Border Force and identified as containing an ISIS flag. The flag was seized and never delivered to MPO.

13. On 24 March 2026 police executed a search warrant at MPO's family home in [redacted]. When asked MPO identified devices used by him to police and provided passwords pursuant to s 3LA *Crimes Act 1914* (Cth). Police seized an iPhone 13, MacBook, USB and a small printed ISIS flag.
14. No weapons, chemicals, or precursor materials were found.
15. A further warrant was executed on MPO's school locker on 24 March 2026, and no items of concern were found.
16. When interviewed, MPO exercised his right not to answer questions and was charged with:
  - (a) Collecting or making documents likely to facilitate terrorist acts contrary to s 101.5(1) of the *Criminal Code 1995* (Cth);
  - (b) Importing a prohibited import namely an ISIS flag contrary to s 233(1)(b) of the *Customs Act 1901* (Cth).
17. The police have sought advice from the Commonwealth Director of Public Prosecutions in relation to laying 4 further charges. To date as I understand that advice has not been provided.
18. Following is a summary of what was found on the USB, iPhone and MacBook.

### ***The USB***

19. A Portable Document Format (PDF) file titled "*N8rrk-justpasteit.pdf*". The document contains a photograph depicting a bomb in a backpack. Police state the title translates to: "*Easy explosives 3 – Preparation of explosives in urea nitrate*".
20. The document is described as:
  - (a) setting out ingredients required;
  - (b) explaining mixing processes; and
  - (c) showing steps for assembling an explosive device.

Police allege the document was downloaded at 10:17 pm on 23 March 2026. This document was also found on MPO's MacBook.
21. A video file titled "*aq chemistry*". The video allegedly depicts:
  - (a) a male wearing a balaclava;
  - (b) conducting an instructional demonstration relating to explosives;

(c) with Arabic-language music in the background.

22. Police state the content is believed to concern the manufacture of TNT (trinitrotoluene). Police note that the abbreviation “aq” may refer to Al-Qaeda, though this is described as an inference.
23. Digital copies of Issues 1–5 of a publication titled “*Benefit of the Day Magazine*”. Police describe the magazine content as addressing topics including:
  - (a) jihad;
  - (b) martyrdom;
  - (c) mujahidin/muhajirin;
  - (d) tawhid;
  - (e) kufr and infidels.

The magazines are characterised by police as promoting an extremist interpretation of Islam.

24. A substantial number of PDF files attributed to At Tibyan Publications. Police state the documents appear similar in subject matter to the “*Benefit of the Day*” magazines and promote extremist ideological material.
25. Multiple images of the ISIS flag stored on the USB device.

### ***The iPhone 13***

26. An article titled “*Train Derail Operations*”, attributed by police to *Inspire* magazine. Police describe the article as containing text and images relating to methods of derailing a moving train.
27. An article titled “*Targeting Means of Transportation*”, depicting images of train derailments and their aftermath.
28. An 8-page Arabic-language document titled “*RDX*”, containing images and text described by police as relating to the production of a high-powered explosive. This document is described as instructional in nature.
29. Police allege the iPhone browser, and application history includes:

Google searches relating to:

- (a) ISIS and related figures;

(b) ISIS-themed phone wallpapers and imagery.

Apple Maps searches for:

(a) “*synagogues*”

(b) “*most busy intersection in Melbourne*”.

30. Police allege the device contained images and video content attributed to extremist media sources, including:

(a) propaganda videos associated with ISIS;

(b) imagery of the USS Cole following a 2000 terrorist attack;

(c) a photograph of Osama bin Laden.

31. Videos depicting real-world violent events, including unedited footage of terrorist attacks and other extreme violence and videos and audio content of sermons or commentary by clerics described by police as extremist.

32. Digital publications titled:

(a) “*Advice for Martyrdom Seekers in the West*”

(b) “*Ruling on Lone Jihad*”

(c) “*Security for the Lone Mujahid*”.

33. Participation in a WhatsApp group involving other students from MPO’s school and on 23 March 2026 the posting to that group, of a video featuring an extremist preacher.

### ***The MacBook***

34. It is alleged explosives-related documents were found which included an Arabic-language PDF document titled “*Easy Explosives 3 – Preparation of explosives in urea nitrate*”, containing images and text described by police as relating to explosive manufacture downloaded on 23 March 2026 - this being the same document located on the USB.

35. Police allege that MPO’s online activity and browsing tools revealed:

(a) Installation and use of the TOR (Onion Router) browser, alleged to have been used between October 2023 and March 2026.

- (b) Bookmarked or accessed websites described by police as relating to Islamic State material; and “operational security” or detection-avoidance content.
- (c) Use of privacy and anonymity tools, including “hide my email” and the use of “dark web” indexing or reference sites.
- (d) Content viewed included videos alleged to depict terrorist attacks or their aftermath; propaganda material attributed to ISIS or Al-Qaeda-aligned media outlets; and extremist clerics delivering sermons or commentary.
- (e) Imagery praising or depicting known terrorist figures or attacks.
- (f) Publications of manuals addressing lone-actor activity, martyrdom, or jihad; instructional or advisory texts concerning security, disguise, or concealment; and publications attributed to extremist media or foundations.

### **Informant’s Evidence**

- 36. The informant read the remand summary and through him it was tendered. He opposes bail.
- 37. The informant is of the opinion that MPO “...in the process of self-radicalisation. It is the submission of the police that there are no bail conditions which will sufficiently alleviate these risks and that bail should not be granted to the accused”.
- 38. Under cross examination the informant was questioned on the following:
  - (a) paragraph 11 of the Remand Summary, which alleged that on 28 April 2026 MPO had a conversation with another detainee in which he stated that on 27 March he would teach the detainee to make explosives so that he could “blow up the whole of Melbourne”. The informant was unable to provide any details save for the narrative just outlined.
  - (b) paragraph 6(p) which stated the following “The accused has begun to develop a pattern of viewing extremist material first thing in the morning upon waking up, and the last thing in the evening before going to sleep. Open-source psychology research papers show that this can be a highly detrimental and damaging effect on one’s actions, thought processes, and behaviour. Research shows that viewing extremist material at night emotionally frames the brain which can cause an individual to become more durable, more automatic and more belief guiding over time”. A footnote to this paragraph referenced the following: Matthew P. Walker and Robert Stickgold – Sleep, Memory and Plasticity, Annual Review of

*Psychology*, Volume 57, 2006. It was put to the informant that the statements attributed to the source article could not be found within the article itself. The informant was offered the opportunity to find where in the article the assertion arose. He was unable to do so. He stated the information was obtained from an open-source search and denied the use of generative AI.

- (c) was taken to paragraph 6(a)(ii) in reference to a website said to be accessed by MPO that: *“open-source information reveals research papers that have noted the website as a gateway to extremist material”*. Footnoted to this commentary was the following: Dr Valerie Ann Findlay – *Ideological Violence and Social Change in Canada and the United States from the 19<sup>th</sup> Century to Present Day*. The informant was offered the opportunity to identify in the footnoted article where the statement in paragraph 6(a)(ii) was located. He could not and accepted that the passage did not appear in the article as cited. The failure to identify the statement he said might have arisen because of a misunderstanding or misreading on his behalf.
- (d) Agreed that an extension of brief service had been provided on 14 April 2026 and that a further hand-up brief had been served on 8 May 2026. The current summary referred to six additional charges. The informant confirmed that those matters remained under review by the Commonwealth Director of Public Prosecutions and that no decision had yet been made as to whether those charges would be laid.
- (e) Agreed that information referred to in paragraph 11 had not been obtained from Youth Justice but rather from Corrections Victoria. He indicated that no reliance was presently being placed upon that information.
- (f) Accepted that, notwithstanding the concern expressed in the Remand Summary that family members may have been exposed to extremist material viewed by MPO, he had not spoken to MPO’s parents or siblings.
- (g) Accepted that it was highly likely that family members were present in the home and may have had the opportunity to view material being displayed on a screen but further accepted that there was no direct evidence that they had in fact been exposed to such material.
- (h) In relation to concerns about MPO’s sharing of a bedroom and the possibility that family members had been exposed to material viewed by him, the informant accepted that there was no suggestion that the parents themselves accessed extremist material.
- (i) Agreed that the parents had been cooperative with both Youth Justice and police throughout the investigation.

- (j) Agreed that there was no evidence that MPO had purchased items capable of being used in the manufacture of an explosive device, nor any evidence that he had purchased a drone.
- (k) Stated that he had spoken with a representative of MPO's school on 26 June 2026, namely [redacted]. He was informed that MPO had not completed sufficient work to sit examinations. The informant accepted that no recovery or reintegration plan for MPO's education had been discussed.

**Affidavit of Detective Superintendent Anthony Hall of the Australian Federal Police dated 13 April 2026**

- 39. Detective Superintendent Anthony Hall of the Australian Federal Police opposes bail for MPO. Drawing on his counter-terrorism expertise, he concludes that MPO presents an unacceptable risk to community safety and that the proposed electronic monitoring regime would not adequately reduce that risk.
- 40. Mr Hall explains that individuals influenced by extremist ideology can progress rapidly from online activity to serious terrorist offending. Electronic monitoring he said does not prevent radicalisation, planning, acquisition of weapons, or preparation for an attack, and may only alert authorities after significant steps have already been taken.
- 41. Mr Hall relies on several examples, including the Brighton siege offender Yacqub Khayre, a NSW terrorism suspect who removed an ankle bracelet, and other serious offenders who committed violent acts despite being electronically monitored. These examples are used to demonstrate the limitations of GPS monitoring in preventing serious offending.
- 42. Mr Hall expressed concern that alerts generated by monitoring systems may not be communicated promptly to the JCTT and that monitoring agencies would not have access to all intelligence known to counter-terrorism investigators.
- 43. With respect to MPO, Mr Hall referred to material allegedly found on devices relating to ISIS ideology, terrorist methodologies, explosive devices and potential targets. He considers this material indicative of deliberate engagement with violent extremist ideology and concludes that bail conditions, including electronic monitoring, would not sufficiently mitigate the risk of further offending or danger to the community.

### **Report of Professor Rajan Darjee dated 19 June 2026**

44. Professor Rajan Darjee prepared a report dated 19 June 2026, which was tendered. Professor Darjee gave evidence.
45. Professor Darjee is a highly qualified forensic psychiatrist. He is a Consultant Forensic Psychiatrist, Clinical Director of Psychiatry at Forensic Behavioural Assessment and Consultation Services, and an Adjunct Professor at the Centre for Forensic Behavioural Science, Swinburne University. He has worked in forensic psychiatry in the United Kingdom and Australia for more than 25 years, including in senior clinical and administrative roles in statewide forensic mental health services. He has prepared more than 1,000 expert reports for courts and other bodies, has authored extensive academic publications, and has direct clinical experience assessing and treating individuals charged with or convicted of terrorist offences, including both group-based and lone-actor cases.
46. Professor Darjee's assessment was based on a substantial body of material and direct clinical assessment. He interviewed MPO twice in person at Cherry Creek Youth Justice Centre, for more than three hours in total, and spoke with MPO's parents by telephone for almost an hour. He reviewed the letter of instruction, remand summary, police affidavit, charges, Youth Justice Bail Report, proposed bail conditions and prior criminal history. He also administered formal assessment tools, including the Paulhus Deception Scales to assess response style, the RAADS-R, Autism Quotient and Empathy Quotient to screen for autism spectrum disorder, and the MCMI-IV to assess personality and clinical features.
47. Professor Darjee concluded that MPO meets criteria for Autism Spectrum Disorder, Level 1, although previously undiagnosed. That conclusion was based on his clinical presentation, self-reported history, parental history and screening results. He identified longstanding deficits in social communication, restricted or repetitive behaviours, early developmental features, social awkwardness, emotional inhibition, difficulty forming and maintaining relationships, and functional impairment. He considered that MPO's personality presentation was largely explained by autism rather than a separate personality disorder. He also identified mild anxiety and depression predating arrest, which had worsened in custody.
48. Professor Darjee considered that MPO's autism, social isolation, interpersonal difficulties, feelings of alienation, identity uncertainty and emotional vulnerability likely made him more susceptible to exploring extremist material. He considered that this vulnerability may have arisen partly through taking religious commitment further, partly through feelings of alienation or resentment, and partly as a means of bolstering identity. He did not diagnose psychosis, major mental illness,

cognitive impairment, or any condition requiring medication, but recommended psychological support directed to autism, social communication, anxiety, depression and identity development.

49. In assessing risk, Professor Darjee applied the TRAP-18, the Terrorist Radicalization Assessment Protocol. He explains that TRAP-18 is a structured professional judgment tool designed to assist short-term threat assessment in lone-actor extremist violence cases. He distinguishes it from a long-term predictive risk assessment tool. He expressly notes that there are no validated medium- or long-term instruments capable of reliably predicting extremist violence, due in part to the very low base rate of recidivism in extremist offending. For that reason, he focused on short-term threat assessment and risk management, which he considered most relevant to bail.
50. Under the TRAP-18 framework, Professor Darjee considered two groups of factors: proximal warning behaviours, which are more closely connected to possible short-term movement toward violence, and distal characteristics, which are broader background vulnerabilities or predispositions. He found three of the eight proximal warning behaviours to be fully or partially present: Pathway, Fixation, and Identification. In substance, this reflected the material found on devices, the apparent research activity, and ideological engagement. However, the remaining proximal warning behaviours were absent. Importantly, he found no novel aggression, no energy burst, no leakage to a third party, no last resort thinking, and no directly communicated threat.
51. Professor Darjee accepted that the material located on the devices gave rise to legitimate concern that MPO may have been moving toward lone-actor extremist violence.
52. However, the absence of key proximal warning behaviours meant there was no evidence that he had moved to imminent violence. In particular, Professor Darjee found no evidence that MPO had actively planned violence, acquired the means to commit violence, made operational preparations, communicated an intention to offend, threatened any person or target, or reached a point where he believed violence was necessary or unavoidable.
53. In relation to the distal characteristics, Professor Darjee found six of the ten factors to be fully or partially present. These included ideological framing, partial personal grievance or moral outrage, some dependence on virtual community, partial changes in thinking and emotion, autism spectrum disorder, and partial creativity or innovation.

54. However, he emphasised that distal characteristics do not mean a person will commit violence or is likely to do so. They indicate only a potential vulnerability or predisposition. Significantly, he found criminal violence absent, noting that MPO had no prior offending history and no history of violence.
55. Professor Darjee's ultimate risk conclusion is qualified. He accepts that concern about possible progression toward extremist violence is legitimate, given the materials and activities found on the devices and the TRAP-18 findings.
56. However, he expressly states that MPO was not on an inevitable path to violence. If he was moving in that direction, Professor Darjee concludes that he was at the researching stage only. He had not actively planned, acquired means, prepared, or taken steps such that extremist violence was imminent.
57. Professor Darjee further noted that, following arrest and intervention, MPO may no longer have the motivation or inclination to continue in that direction.
58. Professor Darjee also recognised limitations in the assessment. He noted that MPO had not been completely open about what he had done or his motivations and that the Paulhus Deception Scales showed a high level of impression management, meaning caution was required when interpreting his self-report.
59. Despite those limitations, Professor Darjee still distinguished between concerning research and ideological material on the one hand, and evidence of imminent operational planning or capability on the other. His opinion was that the available evidence supported concern, but not a conclusion that violence was imminent or that MPO had progressed beyond research and exploration.
60. As to management in the community, Professor Darjee concluded that the proposed bail conditions would allow for adequate monitoring and management of any ongoing risk. His reasoning was that strict bail conditions would permit early detection if MPO re-engaged in concerning activity, would limit his opportunity to access extremist material, and would restrict his capacity to progress further along any pathway toward extremist violence. He noted that the proposed conditions were strict and that, if breached, the breach would likely be detected quickly and MPO would be liable to return to custody.
61. In his oral evidence, Professor Darjee stated that information suggesting MPO had spoken to another young person about making explosives, if substantiated, would heighten his concerns when applying structured risk assessment tools.

62. Professor Darjee was asked about the significance of MPO's denials concerning his conduct and motivations. He said that denial, of itself, did not increase risk. However, it made assessment more difficult because he did not consider MPO to be providing a full and open explanation for his interest in, and access to, extremist material. This limited the ability to assess how far MPO's thinking and conduct had progressed. Professor Darjee said that, outside the terrorism context, there was substantial research concerning denial in relation to violent and sexual offending, and that such research generally showed no clear relationship between denial and future offending. He was unaware of comparable empirical research concerning persons charged with terrorism offences. He explained that denial can arise for a variety of reasons, including shame, a desire not to appear to be a bad person, or a wish to avoid disappointing family members.
63. Professor Darjee said that he did not regard MPO as particularly skilled at impression management or manipulation. He observed that, if MPO had been sophisticated in that regard, it was unlikely that the present circumstances would have arisen. Rather, his impression was that MPO was not being fully open about his conduct and motivations and struggled to articulate why he had accessed the material that had come to the attention of authorities.
64. In relation to risk, Professor Darjee expressed the opinion that there was not an imminent risk of MPO carrying out a terrorist attack. He described MPO as being, at most, in a stage of researching or exploring material of interest rather than gathering materials, undertaking preparatory acts, or developing the capability to commit an attack. He said MPO did not presently possess the capability to carry out such conduct within a short period.
65. Professor Darjee recommended psychological intervention. In particular, he proposed treatment that recognised MPO's autism spectrum disorder and the engagement of a psychologist capable of developing trust and rapport before exploring in greater depth the reasons for MPO's online activities and interest in extremist material.
66. Under cross-examination, Professor Darjee accepted that MPO did not appear to possess the means necessary to carry out the activities he had been researching online. He agreed that evidence that MPO had obtained relevant materials or equipment would materially alter his assessment.
67. Professor Darjee was also asked about the relationship between autism and radicalisation. He accepted that some research suggests persons with autism spectrum disorder may be overrepresented amongst those investigated for extremist activity. However, he noted that there are many individuals with autism

who become interested in ideological material online without progressing to extremist activity. He agreed that earlier identification of MPO's difficulties and earlier support may have had some bearing on risk.

68. Professor Darjee described MPO as having difficulty appreciating the perspectives and experiences of others, a feature associated with his autism. He said that MPO found it difficult to place himself in the position of other people and often experienced himself as different from others. He was careful to distinguish those features from callousness or indifference, stating that he did not regard MPO as cold or callous towards others.
69. Professor Darjee agreed that such features may contribute to vulnerability to radicalisation. He accepted that fixation can be relevant when assessing threat and that feelings of alienation may increase risk in some individuals. He noted that MPO exhibited some suspicious thinking but did not present with paranoid delusions.
70. Professor Darjee was asked about contemporary approaches to threat assessment in the terrorism context. He explained that the principal question is whether a person has the potential to pose a threat and, if so, whether there are identifiable warning signs indicating movement towards acting on that threat.
71. He described threat assessment as requiring consideration of two distinct matters. The first concerns relatively stable or enduring risk factors that may indicate a person's potential capability or vulnerability to engage in extremist violence. The second concerns more immediate or proximal indicators that a person is progressing from holding ideas or interests towards action.
72. Professor Darjee explained that it is important to distinguish between an individual's beliefs, interests or online activity and evidence that they are taking steps towards implementation. In assessing risk, particular attention is given to behaviours suggesting progression from fantasy, curiosity or ideological interest towards preparation and mobilisation.
73. He said that practitioners look for warning signs that an individual is moving from distal risk factors to more immediate risk indicators. Such indicators may include acquiring materials, undertaking preparations, engaging in operational planning, conducting reconnaissance, seeking weapons or explosives, or otherwise taking practical steps consistent with carrying out an attack.
74. In the present case, Professor Darjee's view was that there was evidence of online research and exploration of extremist material but little evidence of progression towards action. He noted the absence of evidence that MPO had acquired bomb-making materials, obtained a drone, secured weapons, or undertaken other

practical preparations. For that reason, although there were factors which warranted concern and ongoing assessment, he did not consider MPO to be demonstrating the warning signs typically associated with an imminent risk of terrorist violence.

75. Professor Darjee emphasised that risk assessment is concerned not only with whether a person presents a risk, but also with whether there is evidence that the person is moving closer to acting on that risk. In his opinion, the available material suggested MPO remained at a stage of interest and research rather than one of operational planning or preparation.
76. Professor Darjee was asked about the efficacy of proposed bail conditions. He said that successful management in the community would require a degree of trust and engagement from MPO. He noted, however, that MPO's history also demonstrated a number of prosocial features. Whilst he considered that caution should be exercised in relying solely upon MPO's assurances, he regarded the proposed bail conditions as providing a significant degree of external monitoring and supervision, particularly in relation to internet access and online activity.
77. Professor Darjee observed that the proposed conditions were stringent. He said that if MPO resumed accessing prohibited material or otherwise breached the conditions of bail, this would likely become apparent relatively quickly and would expose him to the prospect of remand. He considered the monitoring arrangements capable of providing an important safeguard.
78. Professor Darjee reiterated that he did not consider MPO to have been fully open about his behaviour and motivations. In his view, MPO had engaged in conduct involving the accessing of concerning material but had not provided a complete explanation as to why he had done so.
79. Professor Darjee was also asked about reports of behavioural issues at school, including associating with highly religious pupils and refusing to stand during assemblies. He noted that he had not spoken directly with school staff about those matters. Based on the description provided, he said he would characterise such behaviour as defiance rather than evidence of extremist activity.
80. Professor Darjee stated that refusal to comply with school rules, without more, would not lead him to conclude that MPO was becoming fixated upon extremist ideology. Whilst fixation is a relevant consideration in threat assessment, Professor Darjee did not regard the reported school behaviour, in isolation, as demonstrating a progression towards extremist violence. Rather, he considered it necessary to assess such conduct in its broader context and alongside other available information.

81. Consistently with his earlier evidence regarding the TRAP-18 framework, Professor Darjee maintained the distinction between ideological interest and movement towards action. Although MPO had displayed an interest in extremist material and had not been fully forthcoming about that interest, Professor Darjee did not identify evidence of the type of behavioural progression ordinarily associated with mobilisation towards a terrorist act.

**Letter from MPO – Undated**

82. In the letter to the Court MPO stated he has made serious mistakes, recognised the consequences of his actions, and accepted responsibility: he has learned from his time in custody, regrets the distress caused to his parents and wishes to regain their trust. He describes custody as a difficult and confronting experience that has caused him to reflect on his behaviour and appreciate the impact of his actions on his family and others. MPO misses his family, particularly his younger siblings, and wishes to return home to continue his education and support his family. He expresses a desire to complete Year 12, pursue university studies, and build a positive future.
83. If granted bail, MPO stated he will comply with all conditions, attend Youth Justice appointments, observe any curfew and internet restrictions, engage with support services and avoid any conduct that could jeopardise his bail or return him to custody.

**Letter from Afosha Dadar dated 9 June 2026**

84. The letter Chairman, Secretary and Treasurer of Afosha Dadar (an Oromo community organisation) strongly supports MPO and urged the Court to consider his youth, rehabilitation prospects, and strong support network.
85. The organisation acknowledges the seriousness of the allegations but submits that the current circumstances should not be viewed as defining MPO's character or future. It describes him as coming from a respected family known within the Oromo community for honesty, hard work, humility, and commitment to education and community values.
86. The letter emphasises that young people can learn from mistakes and successfully rehabilitate when provided with guidance, accountability, and support. It expresses confidence that MPO has that capacity.

87. Afosha Dadar undertakes to provide practical and ongoing support if MPO is released into the community, including:
- (a) mentorship from respected elders;
  - (b) counselling and wellbeing check-ins;
  - (c) monitoring of education, employment, and vocational engagement;
  - (d) encouragement of participation in community and cultural programs;
  - (e) structured supervision and support aimed at preventing future offending;  
and
  - (f) regular engagement with his family and support network.
88. The organisation states that it is willing to dedicate its time, resources, and leadership to assist his rehabilitation and gives the Court its strongest assurance that it will actively mentor, guide, monitor, and support him. The writers conclude that MPO has genuine rehabilitation prospects and should be given the opportunity to continue his education and develop into a responsible and productive member of society.

**Letter from Oromo Resource Centre Inc. dated 6 June 2026**

89. The Chairman of Oromo Resource Centre Inc. (ORC) provided a statement to the Court explaining its role as a community organisation dedicated to promoting wellbeing, lawful participation, social inclusion, and positive youth development within the Oromo community in Australia.
90. The letter emphasises that the organisation promotes:
- (a) respect for the law;
  - (b) education and positive community engagement;
  - (c) awareness of the consequences of engaging with unlawful material; and
  - (d) protection of young people from harmful influences, including unlawful online content.
91. ORC states that it regards education, guidance, mentoring, and early intervention as important measures for both community safety and youth rehabilitation.
92. Further, should it be considered appropriate by the Court and relevant authorities ORC is prepared to support MPO through:
- (a) mentoring and youth guidance;

- (b) family engagement;
  - (c) community-based rehabilitation;
  - (d) structured and positive community activities; and
  - (e) other lawful support mechanisms designed to reinforce education, personal responsibility, wellbeing, and constructive participation in society.
93. The statement notes that ORC conducts mentoring, youth guidance, family engagement, and community education programs each Saturday at its Mt Cottrell centre and remains willing to assist in any lawful rehabilitation process directed by the Court.

**Youth Justice Bail Service Report dated 27 June 2026**

94. Youth Justice continues to assess MPO as unsuitable for EBSS, including electronic monitoring, because it considers the alleged offending is of such a nature that electronic monitoring, curfews and geographical restrictions may not adequately mitigate the identified risks.
95. The report noted that MPO (now 18) is 17 years old has no prior criminal history or Youth Justice involvement, no child protection history, no disability, no alcohol or drug issues and has consistently been compliant and respectful in custody and has consented to Youth Justice supervision, EBSS and electronic monitoring.
96. In respect to his family Youth Justice noted that MPO has strong and ongoing parental support and that his parents are willing to cooperate with Youth Justice and EBSS. The home has been assessed as suitable for electronic monitoring and the family linked with Jesuit Social Services for additional support. His father requires intense medical support including dialysis for diabetes and his mother is a full-time carer for his father and their children.
97. The report states that MPO is a Year 12 International Baccalaureate student. Due to being on remand, he has fallen behind. The school remain supportive of MPO and if electronically monitored would be supported to maintain his education online with Zoom. The school has developed a recovery plan for the completion of Year 12 and preparation for final examinations. MPO's University ambitions remain.
98. The report records that since being remanded, MPO has experienced anxiety, low mood, disrupted sleep and stress associated with custody. He was referred to the Forensic Youth Mental Health Service, which identified no major mental illness or acute psychiatric condition, although further culturally appropriate therapeutic support was recommended.

99. The Pro-integration Model (PIM) assessment remains underway. Youth Justice emphasises that the PIM is a needs assessment rather than a risk assessment, is not predictive of future behaviour, and is not designed to determine bail suitability or sentencing outcomes. Although Youth Justice had previously expected intervention recommendations shortly, during the hearing it was unable to provide any timeframe for completion of the assessment despite earlier assurances that it would be forthcoming.
100. The report describes MPO's behaviour in custody as generally settled, compliant and respectful. He has engaged appropriately with Youth Justice, educational programs, mental health supports and other custodial services. Parkville College reports positive engagement with education and identifies him as a positive influence in the classroom. There has been only one minor custodial incident involving a delayed lockdown with three peers, and otherwise no significant behavioural concerns have been identified during his time on remand.
101. If bail were granted, MPO would be subject to an extensive and highly structured framework. That framework includes 24-hour electronic monitoring by SmartTag, an overnight curfew, twice-weekly Youth Justice supervision, specialist intervention and assessment through the Statewide Rehabilitation Service, community support workers and mentoring, a structured education program, weekly care-team oversight, and immediate notification to police in the event of significant non-compliance. Youth Justice has also developed a detailed compliance plan and timetable to monitor adherence to conditions and respond quickly to any emerging concerns.
102. Mr Tobias-Quigley of Youth Justice gave evidence that a current PIM assessment had not yet been completed and. He indicated that further time would be required before any final assessment could be completed.
103. Mr Tobias-Quigley gave evidence regarding the proposed PIM assessment. He explained that PIM had been identified as the most appropriate assessment process to identify MPO's criminogenic needs and the interventions required to address those needs.
104. At present, that assessment had not occurred and Youth Justice therefore did not have a complete understanding of MPO's treatment and support requirements. Mr Tobias-Quigley was unable to estimate how long that assessment process would take and therefore Youth Justice was not presently in a position to provide a final recommendation regarding suitability for bail.

105. He nevertheless agreed that MPO had indicated a willingness to engage with Youth Justice and treatment services, understood the consequences of non-compliance with bail conditions and had a supportive family willing to engage with Youth Justice. He noted that the family had already commenced that engagement process.
106. Mr Tobias-Quigley described MPO as generally quiet, respectful, and polite. He noted that MPO appeared somewhat on edge in response to the behaviour of others within custody. He also referred to an incident on 19 April 2026 in which MPO reportedly witnessed an assault for which the police have sought a statement.
107. Mr Tobias-Quigley gave evidence that MPO had missed examinations whilst in custody, including an Arabic examination in May, and had fallen behind in his studies. He said that the school remained supportive and that remote learning options could be available. He also referred to reports from Parkville College indicating that MPO had consistently participated in education and had been a positive influence within that environment.
108. Mr Tobias-Quigley recommended a referral to Foundation House for culturally appropriate counselling and treatment services, noting that such a referral could proceed if MPO were granted bail. He was unable to comment on likely waiting times for those services.
109. Under cross-examination, Mr Tobias-Quigley accepted that he was unsure whether MPO had formally accepted a referral to Foundation House. He had met with MPO on approximately five or six occasions for periods ranging between 30 and 60 minutes. He described MPO as consistently quiet, respectful and polite. He said he would not characterise MPO as superficial in his engagement and accepted that MPO had generally been willing to engage and had not sought to avoid participation in discussions.
110. Mr Tobias-Quigley agreed that, notwithstanding the proposed bail support package, Youth Justice's position remained that MPO was presently unsuitable for bail and that the proposed program did not in Youth Justice's view sufficiently mitigate the risk of further offending. He accepted that this was the same position Youth Justice had maintained during the earlier bail application.

#### **Submissions on behalf of MPO dated 30 June 2026**

111. The introduction identifies the central change since the earlier bail refusal: MPO has now been assessed by Professor Darjee who prepared a report dated 19 June 2026 addressing risk. MPO proposes to rely on Professor Darjee's report and oral evidence in support of the renewed bail application. The submissions also

emphasise that MPO has no prior convictions, and that his present remand is the only time he has ever been in custody.

112. It was submitted that “*exceptional circumstances*” is a stringent test, described as an “*extremely high hurdle*”, but not an impossible one (*DPP (Cth) v Khan* [2021] VSC 224 [90]).
113. The submissions rely on a number of authorities (*DPP (Cth) v Khan* [2021] VSC 224, *Re Logan* [2019] VSC 134, *Re Gloury-Hyde* [2018] VSC 393, *Re CT* [2018] VSC 559, and *Hammoud v DPP* [2006] VSC 516) for the proposition that exceptional circumstances may arise from one factor or from a combination of factors which, when viewed cumulatively, take the case out of the ordinary. The submissions argue that relevant matters may include the nature and strength of the Crown case, delay, unusual features of the investigation, and MPO’s personal circumstances.
114. The submissions then turn to the Victorian bail framework. They state that, after considering whether exceptional circumstances exist, the Court must assess whether there is an unacceptable risk under ss 4D and 4E of the *Bail Act 1977* (Vic). The prosecution bears the onus of proving not merely that a risk exists, but that the risk is unacceptable. The submissions also emphasise that bail is never entirely without risk, and that the unacceptable-risk assessment must be informed by the surrounding circumstances in s 3AAA and, because MPO is a child, by s 3B of the Act.
115. A substantial part of the submissions is directed to s 3B of the *Bail Act 1977* (Vic). MPO relies on his age and maturity, the principle of minimum intervention, the importance of strengthening his family relationships, the need to support his education with minimal disruption, the need to minimise stigma arising from remand, the known criminogenic and other risks of custody for children, and the over-representation of children from culturally and linguistically diverse backgrounds in the criminal justice system.
116. The submissions referred to *Re JF* [2020] VSC 250 and *Re JO* [2018] VSC 438 for the proposition that s 3B has real operative significance and that exceptional-circumstances analysis for a child must be viewed through the prism of those statutory youth-specific considerations.
117. MPO’s asserted exceptional circumstances are then summarised as a combination of matters which included:
  - (a) his status as a child;
  - (b) the application of s 3B;

- (c) lack of criminal history;
- (d) opportunity to engage with Youth Justice on bail;
- (e) stable family support and accommodation;
- (f) ability to re-engage in education;
- (g) the salutary impact of the period already spent in custody.

118. This is MPO's first period on remand and that incarceration has already had a salutary and deterrent effect. It is submitted that his youth makes him more susceptible to negative peer influences, and that there is a community interest in avoiding prolonged exposure of MPO with no prior convictions to an environment that may normalise criminal behaviour.
119. It was submitted that available to MPO if bailed would be subject to age-appropriate therapeutic interventions as an alternative to continued detention and argue that MPO's youth increases his prospects of rehabilitation.
120. The submissions rely heavily on Professor Darjee's opinion that MPO meets criteria for autism spectrum disorder. They note that Professor Darjee considered custody difficult for MPO because of his autism, and that MPO reported struggling to sleep because of anxiety in custody.
121. These matters it was submitted are relevant to exceptional circumstances and why continued remand may have a disproportionate impact on him as a child with identified developmental vulnerabilities.
122. If bailed, MPO would live at the family home with his parents and siblings. His family support is described as unwavering despite the charges. MPO is the eldest of six children; the family migrated from Ethiopia in 2011 and later became citizens. MPO's father is not working because of kidney failure, and that his mother does not work. The parents are committed to work collaboratively with Youth Justice to ensure compliance with bail conditions further the parents have engaged with Professor Darjee and support their son from receiving assistance for autism.
123. Prior to being remanded MPO was in Year 12 at [redacted]. He was undertaking the International Baccalaureate and intended to study a Bachelor of Commerce at the University of Melbourne. As a result of being remanded he missed an exam in May, and he will need now to repeat that subject. Being in custody he has fallen further behind.
124. On the question of risk, it was submitted the submissions referred to Professor Darjee's use of the TRAP-18, described as a structured professional judgment instrument used to guide threat management in lone-actor violent extremism

cases. The submissions highlight Professor Darjee's view that, for short-term decision-making and threat mitigation relevant to bail, TRAP-18 is the most appropriate instrument.

125. It was submitted that Professor Darjee's found three of the eight Proximal Warning Behaviours wholly or partially present, indicating some evidence that MPO was considering, contemplating or moving toward extremist violence. However, the critical qualification relied upon is Professor Darjee's opinion that there were no factors indicating active planning, no acquisition of means to commit violence, and no decision to commit violence imminently. The submissions emphasise his conclusion that, if MPO was moving towards extremist violence, he was at the researching stage.
126. The submissions rely on Professor Darjee's view that the proposed bail conditions would allow for adequate monitoring and management of ongoing risk. The conditions are said to allow quick identification of any concerning activity, limit MPO's opportunity to interact with extremist material, and limit his ability to progress further along any pathway towards extremist violence. MPO submitted that given his lack of prior criminal history and the expert opinion of Professor Darjee he is not an unacceptable risk.
127. It was submitted that any risk can be reduced to an acceptable level by a combination of:
  - (a) Youth Justice support;
  - (b) family supervision;
  - (c) the deterrent effect of MPO's first period on remand;
  - (d) strict bail conditions with the potential for court-ordered bail reviews requiring him to return before the Court and remain accountable for his engagement with Youth Justice.

#### **The Respondent's Outline of Submissions Dated 1 July 2026**

128. Bail is opposed on 2 bases, the first that MPO has failed to establish exceptional circumstances and the second is that, if released, there would be an unacceptable risk that MPO would endanger the safety or welfare of any person, or commit a Schedule 1 or Schedule 2 offence within the meaning of the *Bail Act 1977* (Vic).
129. As to exceptional circumstances the submissions accepted youth is important however submitted that the Court must consider the seriousness of the alleged offending, the nature of the material allegedly collected, the alleged ideological

content, and the risks said to arise from release. Against that background, the Director submits that the exceptional circumstances threshold is not met.

130. The Director submits that the charged terrorism offence is serious, reflected by the maximum penalty of 15 years' imprisonment, and as a Category A serious youth offence there is a presumption of committal and uplift to the County Court, subject to any application for summary hearing.
131. If proven it was submitted that this case is a serious example of the offence because the alleged documents relate to the preparation of explosives and explosive devices, and because other material was allegedly directed at ideologically motivated violent attacks makes this conduct inherently serious.
132. It was submitted that the case is strong noting no submissions to the contrary had been made and that if found guilty it could not be said the time in custody if bail was refused would exceed any likely sentence.
133. As to surrounding circumstances under s 3AAA the Director submits that MPO sought out ideological material and resources from what appear to be online violent extremist-aligned groups, and that this is of significant concern in the context of collecting material about explosives and ideologically motivated attacks.
134. The Director also acknowledges other relevant circumstances favourable to MPO, including that he has no criminal history and no bail history.
135. The submissions also refer to MPO being a child, noting he is now 18 and there is no cognitive impairment or mental health diagnosis, although it was accepted that Professor Darjee's report suggested possible undiagnosed autism spectrum disorder.
136. The Director also submits that it is relevant that the alleged offending occurred while MPO was living at home under the care and supervision of his parents and with his [redacted] siblings.
137. The Director submits that, if released, MPO would pose an unacceptable risk of endangering the safety or welfare of members of the public and of committing a Schedule 1 or Schedule 2 offence and identifies possible further offences such as murder, attempted murder, intentionally causing serious injury, or indictable offences involving the use of a firearm, offensive weapon or explosive.
138. The Director submits that MPO's conduct demonstrates a progression from ideological interest in ISIS to capability development and potential target identification. Reliance is placed on ISIS-related material and propaganda, instructional documents concerning explosives and train derailment, searches

relating to potential targets, and efforts to conceal online activity and avoid detection.

139. The Director relies on a police assessment that the material, taken as a whole, demonstrates ideological alignment with ISIS, access to capability-building material, and deliberate efforts to conceal that activity. It is submitted that these matters give rise to a real and significant concern that MPO could rapidly progress to an act of ideologically motivated violence with potentially grave consequences.
140. The Director relies on authorities concerning unacceptable risk in terrorism-related bail cases referring to *Re AM (a pseudonym)* [2025] VSC 637 for the proposition that unacceptable risk depends not only on the likelihood of the risk occurring, but also on the seriousness of the consequences if it does and *AB v DPP (Cth)* [2016] NSWSC 1042 and *Re Brookman* [2020] VSC 470 as cases in which courts treated low-likelihood but very serious potential consequences as capable of rendering a risk unacceptable.
141. The Director relies on Youth Justice Bail Service Reports dated 13 April 2026 and 25 June 2026, both of which assessed MPO as unsuitable for EBSS. It is submitted that Youth Justice considered that neither EBSS or electronic monitoring would adequately manage the risks posed by the alleged offending and expressed concerns about the lack of structure and reliance on self-management in the proposed remote day program.
142. The Director submits that a recommended PIM assessment had not been completed and that, in any event, its value would depend on the accuracy and completeness of information provided, given concerns MPO had not been fully candid about his conduct and motivations.
143. The Director notes that MPO declined two mental health appointments, later attended five sessions with Ms Swindon, and was not found to exhibit symptoms of major mental illness. It is submitted that Youth Justice supports did not reduce the risk to an acceptable level, particularly given Ms Swindon's observation that MPO engaged only "*politely yet superficially*".
144. As to the forensic psychiatric report of Professor Darjee dated 19 June 2026, the Director submits that the report does not demonstrate that risk is acceptable but rather raises genuine concerns about MPO's risk.
145. As to such concerns the Director highlights a range of personality, emotional and interpersonal traits identified by Professor Darjee as increasing MPO's vulnerability to extremist ideology, including low empathy, paranoia, social alienation,

interpersonal detachment, identity difficulties, and feelings of resentment and isolation.

146. As to the TRAP-18 findings it was submitted they show several characteristics and warning behaviours associated with extremist violence, while acknowledging there was no evidence of active planning, acquisition of means, or an imminent intention to offend – indicating that MPO was at least in the research stage of a pathway toward extremist violence.
147. Emphasis was placed on Professor Darjee’s concerns about MPO’s lack of candour, including high impression management, self-deceptive responses and unconvincing explanations for accessing the material. With this in mind concern was raised that Professor Darjee had concluded that MPO had not been fully open about his conduct or motivations. This was said to heighten the difficulty of assessing and managing risk.
148. The Director placed further reliance on Professor Darjee’s opinion that, despite MPO’s denials, the device material and TRAP-18 findings gave rise to legitimate concerns that he may have been moving toward lone-actor extremist violence.
149. The Director submits that the identified risks cannot be sufficiently mitigated by bail conditions. The Director argues that the alleged offending, online activity and risk of escalation to violence are such that the Court could not have confidence that MPO would comply with conditions or that restrictions would be effective.
150. As to the proposed bail conditions it was submitted by the Director that this would require a level of trust in MPO, and that the available material does not demonstrate that he can be trusted to comply even with the proposed conditions.
151. The Director further submits that the risk is not confined to the alleged offending already detected, but includes potential rapid escalation to a solo, low-capability violent attack, including by means such as a knife or vehicle. The Director argues that even stringent conditions — such as intensive Youth Justice support, curfews, monitoring, location restrictions, device restrictions and internet restrictions — would not adequately address the risk and that the application for bail should fail.

### **Reasons**

152. Given the nature of the charges before the Court, the Court in determining whether exceptional circumstances exist to justify granting bail to a person who is under 18 years of age, must have regard to (a) the protection of the community as the paramount consideration and (b) the best interests of the person as a primary consideration.

153. MPO relies upon a combination of matters to establish exceptional circumstances, they are:
- (a) Status as a child and the application of s 3B factors.
  - (b) No prior history.
  - (c) Supports available via Youth Justice involvement.
  - (d) Family support and stable accommodation.
  - (e) Continue to engage in education.
  - (f) Salutory impact of custody.
154. In my view, the matters relied upon by MPO must be considered cumulatively. I accept that the test is stringent and has been described as an extremely high hurdle, although not an impossible one. When the matters that are relied upon are considered together, and in all the circumstances of this case, I am satisfied that exceptional circumstances exist to justify the grant of bail for the purposes of s 15AA of the *Crimes Act 1914* (Cth).
155. In reaching that conclusion, I have had regard to the protection of the community as the paramount consideration and to the best interests of MPO as a primary consideration. I have also considered the matters relevant to a child under s 3B of the *Bail Act 1977* (Vic), together with the material before the Court concerning MPO's personal circumstances, supports, treatment needs and the management of risk.
156. The uncontested evidence is that MPO has a supportive family and a stable home environment. His parents are willing to support him if released and to assist in supervising his compliance with bail conditions. The material also demonstrates that the family has community connections and support, including through the community organisations Afosha Dadar and the Oromo Resource Centre who offer pro social engagement and support.
157. The material further establishes that MPO would be supported to continue his education if released. He is in Year 12 and had been attending school full-time until his arrest and remand. The school has developed arrangements for him to continue his studies remotely, with the aim of completing his final year.
158. MPO has no prior criminal history and there have been no prior allegations of violence.

159. His letter, together with the Youth Justice material and Professor Darjee's report, demonstrates the impact of remand upon him. I accept that his experience of custody has had a salutary effect.
160. Professor Darjee has diagnosed MPO with autism spectrum disorder and has identified that custody is particularly burdensome for him, given his autism-related vulnerabilities, anxiety and depression. Professor Darjee recommends autism-informed psychological support and treatment in the community, directed to helping MPO understand his ASD, develop strategies for communication and social interaction, address anxiety and depression, and engage more openly about his conduct and motivations.
161. In combination, MPO's youth, lack of prior history, stable family and community support, continuing educational pathway, the availability of Youth Justice and therapeutic supports, the impact of custody to date, and Professor Darjee's assessment of diagnosis, needs, responsivity and risk management amount to exceptional circumstances justifying bail.
162. I now move to the question of unacceptable risk.
163. On 13 April 2026 MPO applied for bail. The application was refused and in doing so I concluded:
- (a) *I accept that exceptional circumstances have been established, having regard to the applicant's age, the absence of any prior offending history, his educational history, and the presence of a supportive family environment.*
  - (b) *Notwithstanding the matters accepted as establishing exceptional circumstances, I am not satisfied that the risks identified can presently be managed to an acceptable level.*
  - (c) *I place significant weight on the assessment of Youth Justice, which concludes that the applicant is currently unsuitable for bail services. That conclusion is not based on any unwillingness on the part of the applicant to comply with bail conditions, but rather on the absence of a completed Pro-Integration Model assessment.*
  - (d) *Youth Justice has assessed that such an assessment is necessary to properly understand the nature and drivers of the risks said to arise from the alleged conduct, and to inform any effective and targeted intervention.*
  - (e) *In the absence of that assessment, the Court is unable to be satisfied that any proposed bail framework would meaningfully address the risks alleged. Without a clear understanding of the applicant's needs and responsiveness to intervention, the management of risk remains*

*speculative. The safeguards proposed cannot be regarded as grounded in an evidence-based assessment of what is required to mitigate the risks said to arise in this case.*

*(f) That difficulty is exacerbated by the serious nature of the allegations. The alleged offending concerns the collection and accessing of material said to facilitate terrorist acts and engagement with extremist ideology. As Youth Justice has observed, such risks are complex and primarily ideological and online in nature, and are not readily addressed through standard supervision mechanisms, including curfews or electronic monitoring, in the absence of specialist guidance.*

*(g) In those circumstances, even the strict conditions proposed are insufficient to satisfy me that the safety of the community could presently be adequately managed. Until the Pro-Integration Model assessment has been completed and a tailored, informed management plan is available, I am not satisfied that the identified risks can be reduced to an acceptable level.*

*(h) Accordingly, I find that an unacceptable risk remains, and the application for bail must therefore be refused.*

164. The significant difference in the present application is the assessment and recommendations of Professor Darjee. No issue was taken by the prosecution with his expertise. Professor Darjee is a highly qualified and experienced forensic psychiatrist who, relevantly, has assessed and treated individuals charged with terrorism-related offences. In formulating his opinion, he had regard to the police material, including the remand summary and the affidavit of Detective Superintendent Anthony Hall. He also interviewed MPO and members of his family and administered a broad range of psychometric and forensic assessment tools.

165. Professor Darjee concluded that MPO meets criteria for autism spectrum disorder, assessed as requiring some support but not a high degree of intervention. He identified persistent difficulties with social communication, social-emotional reciprocity, non-verbal communication, relationships, fixated interests and sensory sensitivities, with early developmental onset and functional impairment. He considered MPO's anxiety and depression to be related to his ASD and worsened by custody but did not consider medication presently required.

166. Professor Darjee recommended autism-informed psychological support to help MPO understand the effects of ASD, develop strategies for social interaction and communication, plan with his autism in mind, and address anxiety and depression.

He considered that supportive, non-confrontational therapeutic work may assist MPO to speak more openly about his conduct and motivations.

167. Professor Darjee identified legitimate risk and threat concerns, based on MPO's device material and TRAP-18 findings, but did not assess the risk as imminent.
168. He considered there was some evidence MPO may have been researching or moving toward lone-actor extremist violence, but no evidence that he had actively planned violence, acquired the means, prepared, or decided to act imminently.
169. Professor Darjee noted that assessment of MPO's true motivation was difficult because MPO had not been completely open about his conduct and motivations and had engaged in a high degree of impression management. Despite that, Professor Darjee considered that strict bail conditions could adequately monitor and manage any ongoing risk by limiting access to extremist material, reducing opportunity, and enabling prompt detection of concerning behaviour.
170. Professor Darjee's opinion was that, although legitimate concerns existed about possible movement toward lone-actor extremist violence, the proposed strict bail conditions would adequately manage that risk. He considered the conditions would restrict access to extremist material, limit opportunity for further progression, enable prompt detection of concerning conduct, and provide a basis for immediate return to custody if breached.
171. In the circumstances of the present case, the matter that was absent from the first application is Professor Darjee's assessment and findings. His report now provides the Court with an expert assessment of MPO's diagnosis, needs, responsivity to intervention, and the management of risk in the community.
172. Professor Darjee also addresses the risk and threat concerns arising from the device material and the TRAP-18 findings and concludes that the proposed strict bail conditions would adequately monitor and manage any ongoing risk.
173. Accordingly, while the respondent's concerns remain serious, Professor Darjee's report materially changes the evidentiary position from the earlier application. It provides an expert basis for concluding that MPO's needs and responsivity have now been identified, and that the risk can be managed by a strict, structured and treatment-informed bail regime. This is what will be provided to MPO with EBSS and electronic monitoring.
174. Youth Justice expressly described the PIM assessment as a needs assessment rather than a risk assessment. It is not predictive of future behaviour and is not designed to determine bail suitability or sentencing outcomes. The difficulty in this

case is that, although the PIM assessment was identified as outstanding as early as April, it remained outstanding in July. It was not known when it would be completed.

175. In my view, Professor Darjee's opinion fills that gap. His report clearly identifies MPO's needs, including his autism spectrum disorder, social isolation, anxiety, depression, identity vulnerability and need for specialist psychological intervention. Importantly, Professor Darjee does not merely identify those needs in the abstract; he explains how they relate to the management of any risk in the community. His opinion is that the proposed bail conditions, together with targeted treatment and supervision, would allow any ongoing risk to be monitored, detected and managed.
176. If bail were granted, it would be expected that Youth Justice, under whose auspices MPO would be supervised, would act upon Professor Darjee's recommendations. That would include facilitating specialist therapeutic support, assisting with education and structure, monitoring compliance, and responding promptly to any concern. In those circumstances, the absence of a completed PIM assessment should not be treated as a barrier to bail where there is already a detailed expert opinion identifying the relevant needs and explaining how those needs can be addressed within a strict community-based bail framework.
177. I now turn to the authorities relied upon by the respondent.
178. The facts of the present case are materially different from those in *Re AM* [2025] VSC 637. In that case, the applicant was alleged not only to have accessed extremist material online, but to have published violent extremist material, made threats to kill and to use force or violence against a religious group, posted images of himself with knives, including a tactical-style knife and machete and made a gesture associated with extremist ideology. There was also material suggesting a possible target, including threats directed to the Melbourne Hebrew Congregation and handwritten notes referring to the MCG.
179. The present case is also materially different from *AB v Director of Public Prosecutions (Cth)* [2016] NSWSC 1042, which was a bail application in the Supreme Court of New South Wales. In that case the applicant had published material indicating an intention to carry out a knife attack in a crowded public place, referred to retribution following an incident in Orlando, Florida from the previous day, identified or mapped potential targets, threatened to kill members of the public including children, and indicated an intention to end his own life afterwards. I also note that the *Bail Act 2013* (NSW) does not contain a similar (prescriptive) provision to s 3B of the *Bail Act 1977* (Vic).

180. By contrast, the present case does not involve an express threat to kill or harm any person or group, a published statement of intention to carry out an attack, possession or display of weapons, or handwritten material identifying a target for attack. The allegations remain serious, and they are matters that properly give rise to concern. However, they are different in character and degree from the conduct alleged in *AB*.
181. A further distinction is the nature of the expert evidence now before the Court. In *AB*, the psychiatric evidence referred to at [34]–[37] of the judgement did not include the kind of structured risk and threat assessment now provided by Professor Darjee who assessed MPO’s diagnosis, needs, responsivity and risk management. Professor Darjee concluded that the material found by police and the device material and TRAP-18 findings sufficiently raised legitimate concern about possible movement toward lone-actor extremist violence, but he noted the absence of active planning, acquisition of means, preparation, or imminent intent. If MPO was moving in that direction, Professor Darjee assessed him as being at the research stage.
182. Importantly, Professor Darjee expressed the opinion considering this that the proposed strict bail conditions would adequately monitor and manage any ongoing risk by limiting access to extremist material, restricting opportunity for further progression, enabling prompt detection of concerning conduct and supporting autism-informed psychological intervention. That expert evidence which was absent in *AB* provides a material basis for distinguishing the present application.
183. *Re Application for Bail by Brookman* [2020] VSC 470 is also distinguishable. Brookman at the time of the offending was an adult having been born on 16 March 1976 ([30]). The allegations there involved direct support for armed jihadi groups overseas, including provision of medical services, attendance at a boot camp, weapons training, guard duty, maintenance of weaponry, later association with a Chechen group and concerns about correspondence some 5 years later while on remand. The facts of this case are very different. MPO is a child. The steps taken are at the highest involve online research. The assessment of risk is therefore an entirely different exercise in the present case.
184. Little weight can be placed on the affidavit of Detective Superintendent Anthony Hall in assessing risk. The affidavit was prepared without reference to Professor Darjee’s report or to the evidence adduced before the Court and therefore proceeds on an incomplete factual foundation. The examples relied upon by Detective Superintendent Hall of individuals offending whilst subject to electronic monitoring are selected examples only and do not reflect the totality of the evidence before this Court. Further, the limitations said to be associated with electronic monitoring are

considered in isolation and without regard to the comprehensive suite of conditions proposed in this case, including EBSS supervision and support. Consequently, the affidavit does not engage with the full body of evidence relevant to the assessment of risk.

185. I wish to refer to the evidence of the informant referred to in [38(b) & (c)]. It is important that conclusions placed before the Court, particularly conclusions bearing upon risk, are evidence-based and accurately sourced. Assertions about behavioural escalation, psychological effect or the significance of online activity may carry substantial weight in a bail application and should not be advanced unless the material relied upon properly supports them. Where a proposition is attributed to a research article or other external source, but cannot be found in that source, the assertion is not helpful and may mislead the Court, even if unintentionally. In a matter involving such serious allegations and significant consequences, in this case the opposition to bail and therefore the ongoing deprivation of liberty of MPO, the Court can only base its decision on reliable evidence, not inaccurately sourced commentary.

#### **Bail Granted – Conditions**

186. In my view the full body of evidence in this case supports the conclusion that whilst there is a risk, the risk can be rendered acceptable with the imposition of strict conditions. Accordingly, the application is granted on the following conditions:

- (a) Reside at [redacted].
- (b) To abide by a curfew between the hours of 8pm-7am unless with a parent or as agreed in advance by Youth Justice.
- (c) To report to the Officer in Charge of [redacted], each Monday, Wednesday and Friday between the hours of 7am and 8pm.
- (d) To present at the front door of residence during curfew hours upon request of any member of Victoria Police.
- (e) Surrender all valid passports and any other travel documents held within 24 hours to the informant and not possess or apply for any other.
- (f) Not to contact witnesses for the prosecution other than the Informant.
- (g) Not to attend any point of international departure.
- (h) Not to leave Victoria.
- (i) Not to communicate with any prosecution witnesses other than the Informant.

- (j) Attend and comply with all requirements of Youth Justice EBSS Program and obey all lawful directions of Youth Justice.
- (k) For 24 hours of each day wear an electronic monitoring device fitted at the direction of the Secretary. Not tamper with, damage, disable or remove, without reasonable excuse, any electronic monitoring device or equipment used for the electronic monitoring.  
Comply with any direction given by the Secretary, that is necessary for the Secretary to give, to ensure that the accused is electronically monitored.
- (l) Not to drive a motor vehicle.
- (m) Not attend or remain within 100 metres of any Synagogue or Jewish place of worship.
- (n) Not be within the area of Melbourne bordered by Spring Street, Flinders Street, Wurundjeri Way, Dudley Street, William Street and Victoria Parade. This condition is to be electronically monitored.
- (o) Not access, possess, produce or distribute any documents (including documents in hard-copy and electronic form) or electronic media, or attempt to access, possess, produce or distribute any documents or electronic media, for any reason, depicting or describing any:
  - i. explosives, initiation systems or firing devices.
  - ii. firearms, ammunition or knives.
  - iii. anti-surveillance or counter surveillance.
  - iv. suicide attack.
  - v. beheading.
  - vi. bombing.
  - vii. execution.
  - viii. propaganda or promotional material for a 'terrorist organisation' including Islamic State
  - ix. activities of, or associated with, any 'terrorist organisation' including Islamic State

but may access or possess any document or electronic media if that material is:

- x. published by a 'constituent body' of the Australian Press Council.
- xi. broadcast on Australian free to air television.
- xii. broadcast on Australian pay television.

- xiii. shown in a commercial movie cinema.
  - xiv. broadcast on a commercial streaming service.
  - xv. contained in material that is served on your or your legal representative in any criminal prosecution.
- (p) To only possess, access and use one (1) mobile telephone, inclusive of one SIM card; that cannot access the internet.
- (q) You must advise the informant and Youth Justice or another member of within 2hrs of any activation, or change, of:
  - i. the mobile telephone number, provider and International Mobile Subscriber Identity (IMSI) number; and
  - ii. the make, model and International Mobile Equipment Identity (IMEI) number of the mobile telephone handset.
  - iii. any access information required to access the device (including PIN, code or password).
- (r) Not use or access any other mobile telephone device, fixed landline service or public telephone, or cause or permit another person to use or access any other mobile telephone device, fixed landline service or public telephone on your behalf, unless for emergency purposes or contacting the Informant.
- (s) Not access or use any computer (including laptop or tablet) that is capable of accessing the internet other than a computer that has been approved in writing by the informant or Youth Justice.
- (t) To provide any mobile telephone, computer (including laptop and tablet) or other similar device in your possession or under your control to a member of Victoria Police or Australian Federal Police upon request for inspection. You must present any device you have in your possession or control, or have accessed by any means, to a member of Victoria Police or Australian Federal Police immediately and provide any access information (including any PIN, code, password, biometrics) required to access and use the device and access any applications installed on the device.
- (u) Not possess, download, create, access or use, or ask any person to download, create, access or use, any social media or instant messaging account, service, program, platform or application which includes, but not limited to, Facebook, Reddit, Discord, Kik, Omegal, Meta, Instagram, X (Twitter), Snapchat, YouTube, Rumble, Mega, and TikTok.

- (v) Not install, view, use or access by any means, or ask any person to install, view, use or access, The Onion Router (TOR), Virtual Private Networks (VPNs) or access the Dark Web whether by open source, web browsers or application or other program.
- (w) Not download, install, view, participate in, or access by any means, or ask any person to download, install, view, participate in or access, any web chats or forums, unless required for any educational or vocational program that you are enrolled in. You must notify the informant or another member of JCTT-VIC Team 4 of the AFP, of any requirement to access these forums at least 24hrs prior to the first time you are required to access them for educational or vocational purposes, and the schedule of access required.
- (x) Not access by any means, or ask any person to access, any encrypted messaging, or private internet browsing applications or have any dedicated encrypted messaging or private internet browsing applications. These applications include, but are not limited to, Wickr, Snapchat, Signal, Telegram, WhatsApp and Facebook Messenger.
- (y) Not access or use any electronic mail (email) account other than an account that has been approved in writing by the Informant or another member of JCTT-VIC Team 4 of the AFP for you to access or use. You must provide to the Informant or another member of JCTT-VIC Team 4 of the AFP of any access information required to access the email account, including the username and password.
- (z) Not possess or use, or cause any person to act on your behalf to possess or use, any of the following:
  - i. firearm, firearm part or ammunition within the meaning of s 3 (Definitions) of the *Firearms Act 1996* (Vic).
  - ii. a 'prohibited weapon' within the meaning of the *Control of Weapons Act 1990* (Vic).
  - iii. any quantity of petrol exceeding 4 litres that is not contained in the petrol tank of a vehicle that you have purchased, rented, driven or a passenger in.
  - iv. any quantity of any chemical which is:
    - 1. capable of being an irritant or causing bodily harm, or
    - 2. combustible, and
    - 3. which is not consistent with reasonable domestic use.

- v. an article or device, not being a firearm, capable of propelling by any means:
  - 1. any irritant matter in liquid, powder, gas, chemical form or any dense smoke; or
  - 2. any substance capable of causing bodily harm.
- vi. a detonator.
- vii. a fuse capable of use with an explosive or a detonator.
- viii. a knife, in a public place, unless:
  - 1. seated in a restaurant, café or other establishment serving food; or
  - 2. it is a plastic or disposable knife served or supplied with a food purchase.
- ix. a machete.
- x. anything intended, by the person having custody of the thing, to be used to injure or menace a person or damage property.

#### **Court notified of Intention to Appeal prior to hearing concluding**

187. It is uncontroversial that any party dissatisfied with a judicial decision may seek review or exercise any available right of appeal. However, a distinction must be drawn between preserving or exercising a right of appeal following a decision and signalling, before a decision has been made, that an appeal will be lodged if the Court reaches a particular conclusion.
188. In the present case, the Court was informed during the hearing should bail be granted, an appeal would be brought. The Court was also advised that MPO's lawyers had been advised prior to the application commencing that if bail was granted the Director would appeal. The Court was further informed that enquiries had already been made concerning the procedural arrangements for such an appeal. The Court accepts that these matters were raised for administrative reasons and recognises the entitlement of the prosecution to seek appellate review of any adverse decision.
189. However, parties should exercise caution to ensure that communications concerning potential appeals do not occur in a manner capable of creating an apprehension that the judicial decision-making process is being influenced or that the Court's reasons have become secondary to a predetermined intention to challenge the outcome.

### **Postscript to bail being granted - Notification of an intention to Appeal**

190. Immediately after bail was granted, the Director of Public Prosecutions notified the Court of an intention to appeal pursuant to s 15AA(3A) of the *Crimes Act 1914* (Cth). By operation of s 15AA(3C), the grant of bail is stayed from the time of that notification. The accused therefore remains remanded in custody until the appeal is determined, the Director indicates the appeal will not proceed, or the stay expires in accordance with s 15AA(3D).