

NOVA SCOTIA COURT OF APPEAL

Citation: *R. v. Mehaney*, 2026 NSCA 31

Date: 20260402

Docket: CAC 551590

Registry: Halifax

Between:

Aram Melvin Mehaney

Appellant

v.

His Majesty the King

Respondent

Restriction on Publication: s. 486.4 CC
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Judge: Beaton, J.A.

Motion Heard: April 2, 2026, in Halifax, Nova Scotia in Chambers

Written Decision: April 13, 2026

Held: Motion dismissed

Counsel: Aram Melvin Mehaney, appellant in person
Brian Casey, KC, for the appellant
Glenn Hubbard, for the respondent

Order restricting publication — sexual offences

486.4 (1) Subject to subsection (2), the presiding judge or justice may make an order directing that any information that could identify the victim or a witness shall not be published in any document or broadcast or transmitted in any way, in proceedings in respect of

(a) any of the following offences:

(i) an offence under section 151, 152, 153, 153.1, 155, 160, 162, 163.1, 170, 171, 171.1, 172, 172.1, 172.2, 173, 213, 271, 272, 273, 279.01, 279.011, 279.02, 279.03, 280, 281, 286.1, 286.2, 286.3, 346 or 347, or

(ii) any offence under this Act, as it read from time to time before the day on which this subparagraph comes into force, if the conduct alleged would be an offence referred to in subparagraph (i) if it occurred on or after that day; or

(b) two or more offences being dealt with in the same proceeding, at least one of which is an offence referred to in paragraph (a).

Mandatory order on application

(2) In proceedings in respect of the offences referred to in paragraph (1)(a) or (b), the presiding judge or justice shall

(a) at the first reasonable opportunity, inform any witness under the age of eighteen years and the victim of the right to make an application for the order; and

(b) on application made by the victim, the prosecutor or any such witness, make the order.

Decision:

Introduction

[1] On January 23, 2026, Mr. Mehaney was convicted following trial on charges of sexual assault causing bodily harm (s. 272 (1)(c)) and choking during sexual assault (s. 272 (1)(c.1)) contrary to the *Criminal Code* (R.S.C. 1970, c. C-34, s. 1). The trial judge's reasons are reported at 2026 NSPC 3. On February 19, 2026, he sentenced Mr. Mehaney to five years custody (2026 NSPC 8).

[2] Mr. Mehaney appeals from conviction and sentence. His appeal is scheduled to be heard October 13, 2026.

[3] On April 2, 2026, I heard Mr. Mehaney's application for bail pending appeal pursuant to s. 679(1)(a) of the *Code*. At the conclusion of the hearing I provided brief oral remarks explaining I had not been persuaded Mr. Mehaney's release was appropriate on the evidence and submissions constituting the plan he put forward. I indicated these written reasons would follow.

[4] At the risk of seeming trite, it is to be remembered an appellant who comes before the Court seeking bail is in a much different position than an accused who seeks release pending trial. The former no longer benefits from the presumption of innocence the latter enjoys. The burden rested with Mr. Mehaney to persuade the Court, pursuant to s. 679(3) of the *Code*, that three criteria were established:

1. The appeal is not frivolous;
2. He would surrender into custody as required; and
3. His detention is not necessary in the public interest.

[5] The first two factors were not contentious issues during Mr. Mehaney's contested hearing. The Crown properly conceded he could meet the relatively low threshold associated with the first criterion, given its assessment one of the grounds of appeal pled raised an arguable issue that could possibly warrant intervention (*R. v. Munro*, 2026 NSCA 10 at para. 13).

[6] Similarly, the Crown was not concerned the appellant would fail to surrender into custody or that he might present a flight risk. The Crown acknowledged Mr. Mehaney's history of appearances for all court dates and apparent compliance with previous release conditions, both while awaiting his trial and the later sentencing.

[7] The Crown’s challenge to Mr. Mehaney’s application related to the public interest criterion, which *Munro* reminds has two components: public safety and public confidence in the administration of justice (para. 23). Public safety is concerned with the risk to the public. Public confidence includes the Court’s weighing of the competing interests of enforceability and reviewability. In *Munro*, referencing *R. v. Oland*, 2017 SCC 17, Gogan, J.A. noted:

[24] The second component requires weighing two competing interests: enforceability and reviewability. Public confidence in the administration of justice is enhanced by enforcing judgments and correcting errors. The tension between these principles must be balanced in the public interest. As recognized in *Oland*, this public interest framework has withstood the test of time and remains good law. Further to this point, Justice Moldaver cautioned against viewing public safety and public confidence as discrete considerations. [...]

[8] The Crown argued the conditions contained in Mr. Mehaney’s proposed plan were not sufficiently robust to provide the level of reassurance needed in the face of his conviction for serious offences. I note the acknowledgment in the trial judge’s sentencing decision that prior to the index offences Mr. Mehaney did not possess a criminal record. However, he now does, and that informs to an extent the question of public safety and the potential for re-offending when release pending appeal is sought.

[9] The core of the Crown’s concern was the absence of any supervisory mechanism within Mr. Mehaney’s plan for release. As the Crown noted, according to Mr. Mehaney’s proposed plan he would simply be at large with “complete mobility”, absent any police checks or other form of accountability. In my view, his was not a plan that could be said to sufficiently address public confidence.

[10] In *R. v. G.S.*, 2025 NSCA 22, Bourgeois, J.A. discussed the notion of public safety as the necessary precursor to consideration of public confidence in an offender’s release:

[13] An appellant has the obligation to demonstrate that their plan of release does not pose a risk to the public. This engages a consideration of the seriousness of the offence, the terms of release being proposed, and where sureties are involved, their ability to ensure the appellant abides by the terms of release. If the public safety component is satisfied, the two aspects of the public confidence are then considered.

[14] In considering the enforceability interest, the seriousness of the crime, including the circumstances surrounding the commission of the offence, is

central. However, other factors can be taken into account where appropriate. “[P]ublic safety concerns that fall short of the substantial risk mark — which would preclude a release order — will remain relevant under the public confidence component” (*Oland* at para. 39).

[11] A closer examination of the plan put forward by Mr. Mehaney illustrates why it did not satisfy the enforceability component of the public confidence question.

[12] Mr. Mehaney’s proposed release plan would have seen him relocate to rural Newfoundland, to reside with his father. In his evidence, Mr. Mehaney did not offer any information about details such as, for example: the size of the community, any of the services or amenities available therein, the size and type of dwelling and who else might reside in it, and whether his father is employed out of the home. This type of information would have provided much needed context regarding the “on the ground” circumstances at the location where he proposed to reside.

[13] Mr. Mehaney’s evidence was that he could secure employment with a former employer. While important information, it lacked necessary details. The Court could have benefitted from evidence from Mr. Mehaney, or ideally from the prospective employer such as the nature of the business and details of Mr. Mehaney’s job duties, the hours of work and rate of pay. That information would have been important to an understanding of how and when Mr. Mehaney proposed to circulate in the community. At the very least, a letter of confirmation from the employer could have been of some help.

[14] Mr. Mehaney did not offer evidence in relation to why his release plan was silent in respect of the type of reporting provisions usually seen such as, for example, reporting to local police authorities on a regular schedule. His counsel made submissions – which are not evidence – about the very small community in the remote area of Newfoundland to which Mr. Mehaney wished to relocate. Upon a question of clarification by the Court, Mr. Casey reported Mr. Mehaney’s father’s home is approximately 20 kilometres away from the nearest RCMP detachment. Respectfully, that is hardly an insurmountable distance; some creativity could have conjured a type of reporting schedule involving that detachment.

[15] The Court did not have the benefit of any evidence about whether Mr. Mehaney might have access to a vehicle, other transportation, computer equipment

or even a telephone while at his father's home. That would have been information from which the Court might have fashioned conditions that would go to having Mr. Mehaney demonstrate on an ongoing basis the sort of accountability the Crown lamented was absent from his plan.

[16] Finally, the plan put forward did not offer a proposed surety or a cash deposit to demonstrate a binding of Mr. Mehaney's conscience. His counsel indicated in submissions that transportation in winter in the relevant area of rural Newfoundland is difficult. He submitted Mr. Mehaney's father was unable to travel to Nova Scotia, the implication presumably being he could not attend before the Court to put himself forward as a possible surety. This begs the question whether, again with some creativity, it might have been possible for Mr. Mehaney's father to appear in Court in real time via computer/video either from his home or at the closest RCMP detachment?

[17] These are some of the gaps in Mr. Mehaney's plan that left unanswered the questions of how the public safety component of release could be properly met, and how the public could have confidence that his relocation to another province did not eliminate an appropriate measure of supervision or control over him.

[18] In *R. v. Sullivan*, 2024 NSCA 5, Derrick, J.A. referenced the task involved in the "final balancing" of the question of public confidence:

[42] Bail pending appeal requires a "final balancing" of the enforceability and reviewability aspects of the public confidence factor. The "final balancing" must calibrate public confidence as viewed by reasonable, well-informed members of the public. [...]

[43] Assessing the public confidence component of the public interest criterion is a nuanced exercise. There is "no precise formula" for resolving the balancing exercise. "A qualitative and contextual assessment is required". [...]

[19] The proffered conditions of release, requiring only that Mr. Mehaney reside with his father in Newfoundland and have no contact with the victim were not adequate, nor of sufficient strength to allow me to resolve the balancing exercise in his favor.

[20] The public cannot have confidence in a release plan that places virtually no restrictions on an appellant post-conviction, in the face of a five year sentence for serious, violent offences. Something more was needed here. To be frank, Mr. Mehaney's plan resembled the type of release conditions that would likely belong

in the lowest or least stringent form of pre-trial release vehicle, not at the other end of that spectrum in a release order pending appeal.

[21] For the foregoing reasons, the motion was denied. I remain seized of the matter in the event Mr. Mehaney should later choose to file a new motion for bail pending appeal.

Beaton, J.A.