

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2006

CORRIE KELLY,

Petitioner,

v.

Case No. 5D06-3581

STATE OF FLORIDA,

Respondent.

Opinion filed October 19, 2006

Petition for Writ of Habeas Corpus,
A Case of Original Jurisdiction.

Jack R. Maro, Ocala, for Petitioner.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Timothy D. Wilson,
Assistant Attorney General, Daytona
Beach, for Respondent.

PER CURIAM.

Petitioner, Corrie Kelly, seeks a writ of habeas corpus to obtain pretrial release. Petitioner was charged with drug offenses and other crimes in two Lake County cases. None of the criminal charges are capital offenses or punishable by life imprisonment. Petitioner has been detained without bond since his arrest on July 28, 2006. Petitioner filed a motion to set bond, and after a hearing the trial court entered an order denying said motion on October 6, 2006.

As the state did not file a motion for pretrial detention pursuant to Florida Rule of Criminal Procedure 3.132, the trial court should have determined the proper conditions of pretrial release at the hearing on the motion to set bond. See Ho v. State, 929 So.

2d 1155 (Fla. 5th DCA 2006); Nguyen v. State, 925 So. 2d 435 (Fla. 5th DCA 2006).

We therefore grant the petition for writ of habeas corpus, and direct the trial court to conduct a pretrial release hearing pursuant to Florida Rule of Criminal Procedure 3.131, no later than three business days following the issuance of this opinion. This decision is without prejudice to the state to file a motion for pretrial detention, should it choose to do so. See Griffith v. State, 914 So. 2d 1053 (Fla. 5th DCA 2005).

PETITION GRANTED.

THOMPSON, TORPY and EVANDER, JJ., concur.