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Restore Passenger Rail protest: 74yo protester granted electronically monitored bail



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John Tovey was arrested after allegedly blocking Wellington's Transmission Gully.

OPEN JUSTICE



A protester charged with repeatedly blocking Wellington roads has been granted bail, and a judge has allowed a rare insight into how he made his decision.

Typically, discussions within court bail hearings are not reportable due to restrictions within the Bail Act, but Wellington District Court judge Noel Sainsbury today agreed

there was an overarching public interest in the decision and allowed the *Herald* to report details.

Today's hearing surrounded 74-year-old Raumati man John Wilson Tovey, who was arrested and charged with interfering with a transport facility on October 14 last year. He is a member of the Restore Passenger Rail protest group.

Tovey was arrested after allegedly blocking State Highway 2 at Melling as part of a protest.

Later that day he appeared in court and was granted bail, on the condition he did not associate with protesters in future or offend again.

Five days later on October 19, Tovey allegedly blocked Transmission Gully. He was again charged with interfering with a transport facility and granted bail again.

On April 20, Tovey allegedly blocked Adelaide Rd in central Wellington. He was again arrested and charged with interfering with a transport facility.

He was granted bail for a third time, but both the Crown and Tovey's lawyer wished to advance an application for electronically monitored (EM) bail.

That application required 10 days to consider a suitable address, so Tovey was granted traditional bail in the meantime.

"I considered limited bail appropriate. I don't consider that a solution long-term," Sainsbury said today.

He added that remanding Tovey in custody would be a "harsh and blunt instrument".

Tovey returned to court today, where his EM bail application was heard.

Electronically monitored bail was typically used for serious offending or where there was a risk of absconding, reoffending or intimidating witnesses.

Under the Bail Act, EM bail can only be granted to someone in existing custody.

Tovey was never remanded in custody, but Judge Sainsbury said as his bail expired the moment he appeared in court today, he was "technically in the custody of the court".

Tovey sat in the public gallery for the entirety of the hearing.

Conditions for EM bail are usually strict, with stringent rules around when a defendant can leave their property.

Judge Sainsbury said this case was unusual. Tovey had no criminal history, cared for his wife and also volunteered in a mental health support role.

He said that typically there had been hesitancy from the courts to order EM bail with “provision for wide absences”.

But Sainsbury referred to a number of recent High Court judgments that he said opened the door to a form of EM bail that allowed an exceptional defendant more freedom.

“What lies at the heart of this is the risk assessment,” he said, stressing that he was providing no commentary on whether Tovey was guilty or whether the particular charges he faced were appropriate.

“It seems the target of these road blockages occurs often around rush hour, the time it can provide the greatest disruption. A condition requiring him to be at home morning and evening addressed that risk.

“Not every risk can be removed, but this is about minimisation. Mr Tovey knows he’s being monitored, his compliance is more assured.

“Given his lack of history, his age and commitments to his wife and other community organisations, I do not see a need to restrict him on a 24-hour curfew.”

Tovey was granted EM bail, with a condition he remained at his home address between 7am and 9am and 5pm and 6.30pm on weekdays.

Outside those hours he may leave his home for household, social or community interaction, and medical appointments for himself or his wife.

He was not to engage with other Restore Passenger Rail protesters or engage in further protests, and was not to travel south of Porirua.

“You need to be aware of the consequences of not complying,” Sainsbury told Tovey. “The best outcome will be you may find yourself on 24/7 curfew at home. The alternative outcome is you find yourself in custody.

“Whatever the merits of your cause may be, you are subject to the same conditions as every other citizen.”

Restore Passenger Rail conducted multiple protests across Wellington last year and again in recent weeks.

The group claims reliance on private vehicles is contributing to the climate crisis and wants greater transport options for inter-regional travel across Aotearoa.

The group have vowed to continue to disrupt traffic until the Government agrees to restore passenger trains across New Zealand and make public transport free.

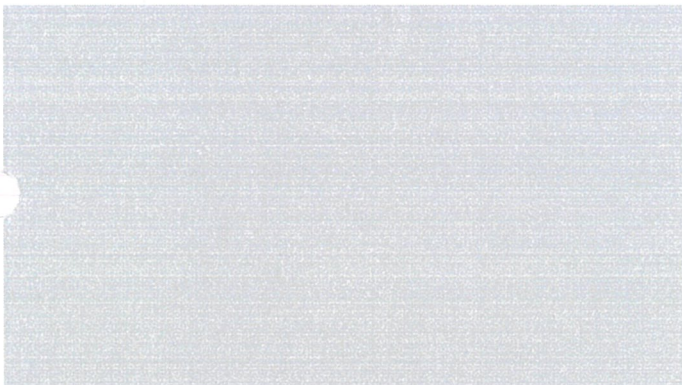


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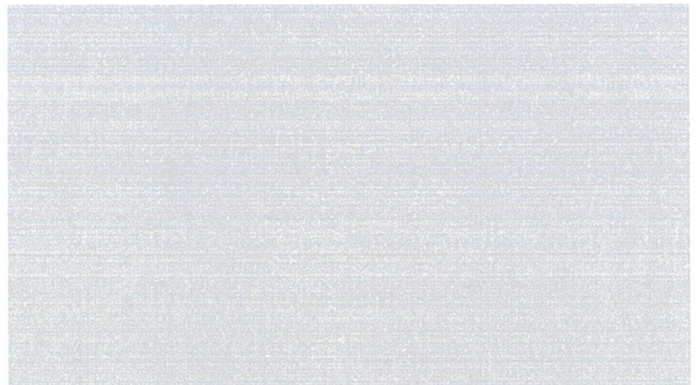


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