

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY, ABUJA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

**BEFORE HON. JUSTICE J. ENOBIE OBANOR
ON THIS 30TH DAY OF OCTOBER, 2024**

CR/173/2021
M/960/2022
M/961/2022
M/26/2024
M/855/2022

BETWEEN:

COMMISSION OF POLICE

COMPLAINANT

AND

1. USMAN ABUBAKAR (AKA YOUNG ALHAJI)

2. EDWARD BABA

3. OJO STEPHEN OLUMIDE

4. VALANTINE IGWILO.....

DEFENDANTS/APPLICANTS

RULING

This is a consolidated ruling on Motion No. M/960/2022; M/961/2022; M/26/2024 and M/855/2022 filed by the 1st – 4th Defendants/Applicants brought pursuant to Sections 35 (1), (4) and 36 (5) of the 1999 Constitution of the Federal Republic of Nigeria (as amended), Sections 158 and 162 (a)-(f) of the Administration of Criminal Justice Act 2015 and under the inherent jurisdiction of this Honourable Court. Their applications pray this Honourable Court for an order admitting them to bail pending trial and final determination of this case.

All the Applications are duly supported by affidavits and Written Addresses.

On the part of the Complainant/Respondent they did not file any Counter-affidavit in opposition. I have perused the affidavit of all the Applicants and the Written Addresses filed by them.

It is no doubt that the position of the law on granting bail pending trial is at the discretion of the Court. The Court however has to exercise its discretion on bail matters judicially and judiciously and such exercise must not be arbitrary. In other words, for the Court to exercise its discretion, the Applicant seeking bail must depose in his affidavit material facts to convince the Court to exercise its discretion in his favour. Apart from the affidavit to support the exercise of discretion by the Court, there are also statutory provisions that would provide a guide to the Court in admitting an Applicant to bail pending trial.

Sections 158 and 162 of the Administration of Criminal Justice Act, 2015 make provisions for the bail of a person suspected to have committed an offence to be admitted to bail pending trial. Section 158 provides:-

" When a person who is suspected to have committed an offence or is accused of an offence is arrested or detained, or appears or is brought before a Court, he shall, subject to the provisions of this part, be entitled to bail."

Section 162 of the Administration of Criminal Justice Act, 2015 further provides:-

"A Defendant charged with an offence punishable with imprisonment for a term exceeding three years shall, on application to the Court, be released on bail except in any of the following circumstances:-"

- (a) Where there is reasonable ground to believe that the Defendant will, where released on bail, commit another offence;
- (b) Attempt to evade his trial;
- (c) Attempt to influence, interfere with, intimidate witnesses and

Interfere in the investigation of the case means;

- (a) Attempt to conceal or destroy evidence;
- (b) Undermine or jeopardize the objectives or the purpose or the functioning of the Criminal Justice Administration, including the bail in question.

The Constitution of Nigeria 1999 (as amended) especially Sections 35 (4) and (5) guarantees to all persons accused of having committed a crime, the right to be presumed innocent until proven guilty. In the case of **IDOWU V FRN (2011) LPELR 3793**, the Court of Appeal held :-

"To safe guard that presumption and to ensure that no person is incarcerated unless convicted after having been found guilty by a Court of competent jurisdiction; the Constitution has further guaranteed to persons arrested and detained upon reasonable suspicion of having committed a crime the right to bail by virtue of section 35 (4) of the Constitution."

The Appeal Court further held in the same case thus:-

"However, there are statutory and procedural laws put in place governing the grant or refusal to grant such bail."

I have gone through all the affidavits of the 1st – 4th Defendants. They have all made deposition assuring the Court that they will not jump bail and to some they need to attend to some medical condition. However, upon considering the facts in the affidavits of all the parties vis-a-vis the nature of the allegation before the Court and the presumption of innocence in favour of the Applicants/Defendants, I am inclined to grant the 1st to 4th Defendants to Bail on the following terms:

- (a) The 1st – 4th Defendants/Applicants are admitted to bail in the sum of N10,000,000.00 (Ten Million Naira) each and two sureties each in like sum;

- (b) One of the sureties must deposit title documents of any property in Abuja worth the sum of N120,000,000.00.
- (c) The genuineness of the title documents must be verified and ascertained by the Registrar of this Court with the Federal Capital Development Authority Lands Registry.

HON. JUSTICE J. ENOBIE OBANOR
(Presiding Judge)
30/10/2024