

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

**BEFORE HIS LORDSHIP: HON. JUSTICE. H. MU'AZU
CHARGE NO: FCT/HC/CR/577/2023
MOTION NO: FCT/HC/M/9647/2024
DELIVERED ON THE 16/07/2024**

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA.....COMPLAINANT/RESPONDENT

AND

GODWIN IFEANYI EMEFIELE.....DEFENDANT/APPLICANT

RULING

By a motion on notice dated 30/06/2024 brought pursuant to Section 6 (6), of the 1999 Constitution (as amended) and under the inherent powers of this Honourable court the Defendant/Applicant prays the court for:

- i. **AN ORDER** of this Honourable Court granting leave to the Applicant to travel to the United Kingdom on 28th July, 2024 to 10th September, 2024 for follow up medical check-up.*
- ii. **AN ORDER** of this Honourable Court granting the interim release of the Applicant's international passports with*

***Passport No: B50098450** to him, same having been deposited with the chief registrar of this Honourable Court, in order to enable him travel to the United Kingdom for follow up medical check-up.*

*iii. AND FOR SUCH FURTHER **ORDER/ORDERS** as this Honourable Court may deem fit to make in the circumstances.*

The grounds upon which this application is brought are as set out on the face of the motion paper.

In the affidavit in support of the application, the deponent, **Nansat Christopher** of No. 9, Bozoum Street, behind A.P Plaza, off Ademola Adetkunbo Crescent, Wuse 2, Abuja averred inter alia that the Applicant was arraigned before this Honourable court on the **22nd** November, 2023 on a Six (6) Count Charge as contained in the Charge Sheet. That on the 22nd November, 2023, this Honourable Court granted the Applicant bail based on some conditions, which includes but not limited to the deposition of his international passports with the Chief Registrar of this Honourable Court and he is required not to travel outside the country save with the leave of this Honourable Court. A copy of the Ruling admitting the Applicant to bail, was attached and Marked Exhibit

MAM1. That in fulfillment of the bail conditions, the Applicant deposited his international passports with Passport No: **B50098450** with the Chief Registrar of this Honourable Court. The Applicant intends to travel to the United Kingdom on the **28th July, 2024 to 10th September, 2024** if the Court graciously grants this application and upon his return, he will return the international passports with **Passport No: B50098450** to the Registrar of this Honourable Court. He will be back to continue with his trial before the next adjourned date if his application is granted as he is desirous that the matter be expeditiously heard and determined. The sureties of the Applicant are aware that the Applicant is desirous of travelling to the United Kingdom for follow up medical check-up. That their consent have been sought for and obtained by the Applicant and they have no fear that the Applicant will return in good time to continue with his case if this Honourable Court grants the interim release of the Applicant's international passport. The Applicant is facing 3 Charges in three different Courts as follows:

- i. Charge No: FCT/HC/CR/577/2023 at High Court 26 of the Federal Capital Territory.**
- ii. Charge No: CR/264/2024, at High Court 3 of the Federal Capital Territory.**

iii. Charge No: CR/264/2024 at High Court of Lagos State.

iv. Charge No: FHC/L/437/2023 (Lagos firearms charge that was withdrawn).

The Applicant has never failed or refused to appear in Court for hearing at any adjourned date. The Applicant will be traveling to the United Kingdom from the 28th day of July, 2024 to 10th September, 2024. The letter of invitation for medical follow-up issued to the Applicant is attached and marked as **Exhibit MAM2**.

The Applicant will return on the said date to face his trial and/or his defence. It will be in the overall interest of justice to grant this application as the complainant will not be prejudice.

In the written address, counsel formulated one issue for determination, to wit: **“Whether from the fact as contained in the Applicant’s affidavit, he is entitled to travel overseas for medical checkup”**

Learned counsel argued the issue in urging the court to grant the reliefs.

Upon service of the Application, the Complainant/Respondent filed a counter affidavit of nine paragraphs dated 5/07/2024, deposed to by MICHEAL AKAWO, a litigation officer in the office of the Attorney General of the Federation. The Deponent

averred inter alia that the Defendant is standing trial in three different courts in Abuja and Lagos. The application of the Applicant/Defendant seeks to vary the existing bail application already granted. That some of the co-conspirators of the Defendant are currently at large and they are currently in different countries such as United Kingdom, Lebanon, Turkey, Mauritius and a host of other countries. There is currently an international collaboration with law enforcement agencies outside the shores of this country to arrest the Co- conspirators. That the grant of the Defendant/ Applicant's application and his subsequent travel abroad might lead to his arrest and same will truncate this proceeding before this Honourable Court. The Defendant might meet with his Co conspirators and thus tamper with evidence yet to be retrieved/ obtained from the co- conspirators. He further averred that several properties outside this country have been traced to the Defendant and the co-conspirators. The Defendant has not placed any material before this Honourable Court to show that the ailment cannot be treated in Nigeria. That putting into cognizance the number of charges against the Defendant he might be tempted to jump bail. That it will be in the interest of Justice to refuse the application of the Defendant/ Applicant.

In the written address filed in support of the counter affidavit of the Complainant/Respondent, counsel submitted a sole issue that calls for determination in this application thus:

Whether having regards to the facts placed before the honourable court, the Applicant is entitled to the reliefs being sought.

In reaction to the Complainant/Respondent's counter affidavit, Applicant filed a further affidavit dated 5th July, 2024, deposed to by **Dr. Okanta Emefiele** of No 18B Aqua Marine Estate, Apo, Abuja. He averred that paragraphs 7 (a), (b), (c), (d), (e), (f), and (g) of the Complainant's/Respondent's Counter Affidavit contains slanted and distorted facts targeted at misleading this Honourable Court, and in response state as follows:

- a. There is no mention of any name(s) of the alleged co-conspirators by the Complainant/Respondent.**
- b. There is no evidence before this Honourable Court to show that any alleged co- conspirators are in the countries where the Defendant/Applicant intends to undergo his medical treatment.**
- c. In response to paragraphs 7 (b) and (c) of the Complainant's/Respondent's Counter Affidavit, the Defendant/Applicant states that there is no single criminal**

allegation against him to warrant the likelihood of the alleged arrest of the Defendant/Applicant by any international law enforcement agencies or any other country in the world. Moreover, the Applicant has not been declared a fugitive to warrant the interest of any international police or law enforcement agencies

d. In response to paragraph 7 (d) of the Complainant's/Respondent's Counter Affidavit, the Defendant/Applicant states that he will not meet with any alleged co-conspirators if granted the variation and the Defendant/Applicant has been on bail for more than six (6) months and there is no evidence of him contacting any alleged co-conspirators either physically, or by telephone or by any other electronic means, let alone interfering with evidence in this matter.

e. In response to paragraph 7 (e) of the Complainant's/Respondent's Counter Affidavit, the Defendant/Applicant states that the alleged linked of properties belonging to him outside the country (if any) will not affect the court's discretion to grant the instant application.

f. In response to paragraph 7 (f) of the Complainant's/Respondent's Counter Affidavit, the Defendant/Applicant states that he has deposed to sufficient facts to warrant the grant of the instant application for treatment outside this country.

g. In response to paragraph 7 (e) of the Complainant's/Respondent's Counter Affidavit, the Defendant/Applicant states that he undertakes to always be present during the trial of this matter and that there is no reason for him to jump bail.

In the reply on points of law, counsel argued that the Complainant/Respondent's counter affidavit has placed reliance on speculation of possible arrest of the Defendant abroad and the issue of unidentified co-conspirators. Learned counsel submitted that the court must act on facts and not speculations. Counsel urged the court to discountenance the defence of the Complainant/Respondent and grant the Application.

Court:

I have carefully considered the processes of parties before me particularly the facts averred in the affidavit and argument canvassed in their addresses.

In my view the issues “Whether the Defendant/Applicant has made a case to entitle him to the reliefs sought” is up for determination.

What the Application calls for, to my mind, is an exercise of the court discretion to allow the Defendant/Applicant to travel outside Nigeria for medical attention. The Defendant/Applicant has maintained that he required Medical attention abroad and has undertaken that if his passport is released to him, he will travel and returns on specific dates.

The Applicant has also undertaken to return his travel documents to the Court Registrar upon his return. The Complainant/Respondent states its fear that the Defendant may jump Bail, or get arrested or meet with his Co- conspirators while abroad. As argued by the Defendant/Applicant counsel, the Complaint/Respondent has not given any specific facts grounding the fear that the Defendant/Applicant if allowed to travel out of this Country will be arrested abroad or that he has Co-conspirators as alleged. It is a fact that the Defendant/Applicant is presumed innocent, and the offence for which he is standing trial are bailable offences, leading this Court to grant the Defendant/Applicant Bail

on Condition and later varied the condition to allowed the Defendant/Applicant move freely within the country pending determination of his case. What the Applicant seeks now is to travel beyond the shores of Nigeria, to UK specifically to attend to his Medical needs. In my view, when the need to protect the Health of the Applicant by traveling abroad is established, the court ought to grant the Application. In the affidavit of the Applicant there is mention of Exhibit MAM 2 (A Letter of Invitation for Medical follow up) and it was said to be attached.

I have looked at the documents accompanying the Motion of the Applicant and have failed to see any letter of invitation. It is not before the Court. Why is it not before the Court? I am left to wonder why that is similarly; the Defendant/Applicant can have his check up in Nigeria. It is only where a Medical report or letter of invitation for Medical follow up states the necessity of having such Medical follow up check up outside the shores of Nigeria, that the Court will consider allowing the Defendant/Applicant to travel outside Nigeria. As it stands, I cannot exercise my discretion to allow the Defendant/Applicant to travel outside Nigeria. Further, the Applicant, as alluded by both parties, is standing trial in 3 different Courts on Allegation of crimes and trial is on in all the 3 Courts. This is another reason to be certain of the necessity to grant

the Application before doing so. On the whole the Application fails and is hereby dismissed.

**SIGNED:
HON. JUDGE
16/07/2023.**

Appearance:

A. S. Wara, Esq, for the Complainant/Respondent

Olawale Fapohunda, Esq, with I. B. Ahmad, Esq, R. Y. Moses, Esq, Ridwan Bamigboye, Esq, and Zakiyya S. Lawal, Esq for the Defendant.