

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT MAITAMA ON THE 17TH APRIL, 2024

BEFORE HIS LORDSHIP, HON. JUSTICE U. P. KEKEMEKE

SUIT NO. FCT/HC/CR/263/24

SUIT NO. FCT/HC/M/6010/24

COURT CLERK: JOSEPH BALAMI ISHAKU.

BETWEEN:

INSPECTOR GENERAL OF POLICE.....COMPLAINANT

AND

- | | | | |
|----|---|---|-----------------|
| 1. | MAY IFEANEME NWAEZE NWOSU | } |DEFENDANTS |
| 2. | C.N. GLOBAL LIMITED | | |
| 3. | NEMEC AGRIC COMPANY LTD | | |
| 4. | SAHARA TOOLING LIMITED | | |
| 5. | AFRICAN EAGLE MULTI TRANSPORT
SERVICES LIMITED | | |

RULING

The Defendant's application dated 26/03/24 brought pursuant to Section 7, 8(2) and Section 16 (2) of the ACJA 2015 and Section 36(5) of the 1999 Constitution as amended prays this Court for:

- (1) An Order admitting the 1st Defendant/Applicant to bail pending the hearing and determination of the charge against her.

And for such order or further orders as the Court may deem fit to make in the circumstance.

Learned Senior Counsel to the Defendant rely on the grounds for the application as shown on the face of the Motion Paper and the Affidavit filed in support.

In the said Affidavit, Salihu Omezia of 30 Chuba Okadigbo Street, Legislative Quarters, Apo Abuja, deposes that 1st Defendant is a spouse of Chinedu Nwosu. That on 11/03/24, 1st Defendant was arrested at her residence and detained. That on 13/03/24 she was transferred to Force Criminal Investigation Department Headquarters Abuja and detained for two weeks before being charged to Court.

That the offences are bailable. That the transaction leading to the charge are bailable offence. That the Nigeria Police Force

have arrested and detained the 1st Defendant in lieu of her husband. That Defendant is entitled to the presumption of innocence. That 1st Defendant is a mother of three. That she has never been accused of any offence and there is no reasonable ground to believe that the 1st Defendant will commit any offence if released on bail. That she will not evade her trial. That the charges against the 1st Defendant amount to persecution and oppression of the Defendant. That she was arrested in lieu of her husband who is the Applicant in a Fundamental Rights proceeding before the Federal High Court. She was informed that she will only be released on condition that her husband Chinedu Nwosu surrender himself to the Nigeria Police Force despite a Court Order mandating the Nigeria Police Force to refrain from interfering in the

subject matter and to maintain status quo pending the hearing of the substantive application. That the Proof of Evidence does not disclose a prima facie case.

The Complainant/Respondent was served on the 26/03/24 with the application Affidavit and all other processes 21 days after the Prosecution/Respondent failed to file a Counter Affidavit in opposition to the deposition contained in the Affidavit filed in support.

The offences under which the 1st Defendant was charged are conspiracy under Section 97 of the Penal Code

- (2) Inducement under false pretence to defraud under section 1(1) (5) of the Advance Fee Fraud and other Related Offences Act and
- (3) Obtaining credit via a dud cheque contrary to under Section 1(a) of the Dishonoured Cheaque (Offences) Act.

By Section 162 of the Administration of Criminal Justice Act 2015, a Defendant charged with an offence punishable with imprisonment for a term exceeding three years as in this case 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 while released on bail commit another offence.
- (b) Attempt to evade his trial.
- (c) Attempt to influence, interfere with, intimidate witnesses and or interfere in the investigation of the case.
- (d) Attempt to conceal or destroy evidence.
- (e) Prejudice the proper investigation of the offence or
- (f) Undermine or jeopardise the objectives or the purpose or functioning of the criminal justice administration including the bail system.

It is emphatic that a Defendant charged with an offence such as in this case shall be admitted to bail except in any of the

circumstances listed above. It behoves on the Prosecution/Complainant/Respondent or the onus is on the Prosecution to place before this Court materials that will inhibit the exercise of the Court's discretion in favour of an Applicant.

The Complainant/Respondent did not file any Counter Affidavit to dissuade the Court from exercising the power to grant bail in the Applicant's favour.

The general rule as stated above is that a person who has not been tried and convicted by a competent Court for an offence known to law is entitled to be admitted to bail as a matter of course unless some circumstances militate against his or her admission to bail.

See *ANI VS. STATE (2002) 1 NWLR (PT. 747) 217*

EYU VS. STATE (1988) 2 NWLR (PT. 78) 602.

It has been held severally by the Courts that a decision to grant or not to grant an application for bail is at the discretion of the Court, such discretion to be exercised judicially and judiciously having regard to the right of the Defendant to his liberty until proven guilty to the crime alleged and the need for the society to be protected from grievous criminal acts.

See *DOKUBO ASARI VS. FRN (2007) 12 NWLR (PT. 1048) 320 SC.*

BULAMA VS. FRN (2004) 12 NWLR (PT. 888) 498 CA.

The law imposes a duty on the Prosecution to contradict or controvert the claim of an Applicant for bail. Where the Prosecution fails to produce strong evidence as in this case to contradict the Applicant's claim the Court will have no basis to refuse bail. The reply on point of law canvassed by the Prosecution is feeble and lacks any courageous opposition. It is wrong in law for the Court to refuse an application for bail on extraneous consideration or upon an unsubstantiated belief or assumption.

BOLAKALE VS. STATE (2006) 1 NWLR (PT. 962) 507.

OMODARA VS. STATE (2004) 1 NWLR (PT. 853) 50.

Under our law, bail is a right of a Defendant accused of a crime. A Defendant is not usually denied bail except where

the offence is a capital offence where special circumstances genuinely exist.

In the instance case, the application has merit, it succeeds. I exercise my discretion in favour of the 1st Defendant/Applicant.

The 1st Defendant's husband is at large. He has failed to turn himself in even after the detention of his wife by the Police for about 21 days. The condition of bail therefore should be such that will make the 1st Defendant available for her trial.

Bail is granted to the 1st Defendant/Applicant in the sum of N50 Million and two sureties in the like sum. One of the sureties shall be a Pastor of the Church where she worships

or its branch in Abuja or the village head or local chief of her community while the second shall be a blood relation having a gainful employment within the jurisdiction of this Court.

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HON. JUSTICE U.P. KEKEMEKE, ACIArb (UK), FICMC
(HON. JUDGE)

17/04/24