

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

BEFORE HIS LORDSHIP: HON. JUSTICE Y. HALILU
COURT CLERKS : JANET O. ODAH & ORS
COURT NUMBER : HIGH COURT NO. 14
CASE NUMBER : CHARGE NO: CR/846/2024
DATE: : THURSDAY 7TH NOVEMBER, 2024

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA

AND



**COMPLAINANT/
RESPONDENT**

AJUDEONU PRECIOUS DEFENDANTS/APPLICANTS

RULING

This Ruling is at the instance of the Bail application moved by Defendant/Applicant vide Motion on Notice dated and filed on the 6th November, 2024, praying the Court for the following:-

1. An Order of this Honourable Court admitting the Defendant/Applicant in this criminal trial to bail pending the final hearing and determination of this Criminal trial.
2. And for such order or further Order(s) as this Honourable Court may deem fit and proper to make in the circumstance.

In support of the application is a 16 paragraph affidavit deposed to by Ajudeonu Precious, the Defendant in this charge. It is the averment of the Defendant/Applicant that, he was being arraigned before this Honorable Court on a 1 count charge.

That he was arrested and interrogated and was subsequently detained by the Economic and Financial Crimes Commission.

That the Complainant has since granted him administrative bail on account of his maximum cooperation with them and on account of health condition.

That he is currently receiving treatment twice a week at a medical home in Lugbe, Abuja.

That it would be in the interest of justice and his health conditions to be allowed to enjoy the bail the complainant hath already granted him so as to fully attend to his health.

That the complainant hath already concluded investigation and if granted bail, he undertake not to interfere with the course of the trial.

That he will be available for trial before this Honorable Court at all times.

That he sustained injuries to the body that require local medicine.

That he will not jump bail if granted bail.

That it will serve the interest of justice to admit the Applicant to bail on self-recognizance or on the most liberal term as the Honorable Court may deem fit to make.

That the Applicant undertakes not to interfere with the investigation of this case or make contacts with the witnesses of the Respondent.

That the Applicant has reliable and responsible persons who are prepared to stand sureties if he is admitted to bail by this Honorable court.

That it will be in the interest of justice if this Honorable Court will grant this application.

In line with law and procedure, Defendant/Applicant filed written address wherein sole issue was formulated for determination to-wit;

Whether having regard to the facts and circumstances of this case the provisions of section 35, 36(5) of the 1999 constitution of the Federal Republic of Nigeria and case Law, the Defendant/Applicant is entitled to the grant of this application on most liberal terms?

It is the submission of learned counsel, that the law is settled that any person accused of having committed a criminal offence enjoys a presumption of innocence as guaranteed by Section 35 (6) of the 1999 Constitution of the Federal Republic of Nigeria (as amended). The presumption of innocence remains until guilt of the Defendant is proven.

Learned counsel submit that, the Fundamental Right of an accused person to personal liberty includes the right to bail pending trial. It is now settled law that this Constitutional right as provided in the 1999 Constitution in Section 35(4) must be favorably applied in favor of an accused person standing trial for non-capital offence particularly where he has pleaded not guilty so as to enable him continue to enjoy his right to liberty by admitting him to bail on workable, liberal terms.

Learned counsel further submit that, since the presumption of innocence still inures in favor of a person standing trial, his freedom to liberty by admitting him to bail on liberal terms in deserving cases must always be protected, irrespective of the offences "bandied in the charge". This is to ensure that such persons standing trial are not forced to serve detention terms even before conviction. ***SULEIMAN VS. C.O.P. PLATEAU STATE (2008) 8 NWLR (Pt. 1089)29;***

EDA VS. COMMISSIONER OF POLICE, BENDEL STATE (1982) 2 NCLR 219;

M.K.O ABIOLA VS. FRN (1994) 1 NWLR (Pt. 370) Page 155 were cited.

Counsel contended that the one count charge the Defendant is standing trial for is one for which a Defendant can ordinarily be granted bail pursuant to the provision of Section 161 (1) (2) (a)-(c) of the Administration of Criminal Justice Act, 2015.

Learned counsel submit that, the depositions as contained in the 16 paragraph affidavit in support of this bail application is on the deteriorating health condition of the Defendant/Applicant inter alia. By virtue of the provision of Section 161(2) (a) of the Administration of Criminal Justice Act, 2015, ill health will constitute special circumstance why a detainee in custody or a Defendant/Applicant will be admitted to bail even if standing a criminal trial for an offence which attract a death sentence.

Learned counsel also submit that, principle is now settled that where a trial court has decided to exercise its discretion in favor of an application for bail. The impression must not be created that bail is given with the one hand while quickly taken with the other by the same court. **OMOEFE ERIC UDUESEGBE VS. FRN (2004) LPELR- 23191 was cited.**

Counsel further submit that, the Defendant/Applicant has shown that he is the bread winner of his family and that he has several dependent's whom he would be unable to fend for. On the

strength of the above authorities and admonition by the Appellate Courts, this court is urged to grant the instant application by admitting the Applicant herein to most liberal terms.

Learned counsel submits that they have shown sufficient special circumstances in urging this court to exercise his discretion in favor of the Defendant/Applicant.

In conclusion, learned counsel submits that the Defendant/Applicant has furnished this Honorable Court with cogent and compelling reasons and facts as to why this Honorable Court should exercise its discretion judicially and judiciously in admitting her to bail. This court is humbly urged this Honorable Court to admit the Defendant/Applicant to bail particularly in reference to the provision of Section 36(5) of the 1999 Constitution of the Federal Republic of Nigeria (As Amended) Third Alteration Act wherein presumption of innocence endures in favor of the Defendant/Applicant.

COURT:-

I have considered the said application seeking the Bail of the Defendant which is uncontested.

Bail is a constitutional right and contractual between an accused and the Court once granted by a Court of law. Constitutional right because the accused person is presumed innocent until his guilt is established as provided for under Section 36(5) of the 1999 Constitution of Federal Republic of Nigeria.

The essence of Bail is not to set an accused person free but to release him from custody of the law and to entrust him to appear at his trial at a given date. It is therefore to grant such an accused person a pre-judicial freedom whose appearances can be compelled by ensuring a credible surety takes him on Bail and undertakes to produce him in Court. Above was stated by Tobi, JSC, (as he then was), in the case of ***SULEIMAN & ANOR VS. C.O.P (3126) (SC)***.

The law is equally established that Section 36(5) of the 1999 Constitution as amended is in favour of an Accused person in view of the fact that his guilt must be established for him to be deprived the entitlement to his Fundamental Human Rights to Freedom of Movement etcetera as enshrined in the Constitution, i.e Chapter IV of the Constitution.

I have listened to learned counsel for the Defendant on the one hand, and the reaction of learned counsel for the Prosecution

who clearly is unopposed to the grant of the application. Please note that once an accused is arraigned before a Court of law and pleads to a charge, it pre-supposes that investigation has been conclusively carried-out. On the other hand, where investigation is ongoing, the Complainant naturally would have approached the Court for a remand Order which will afford them the opportunity to keep such Accused person for 14 days or more once extended by the same Court. The argument therefore that investigation is ongoing can therefore not be tenable.

It is similarly true that the criminal record of an Accused person is often taken into account and the likelihood of such an accused person jumping bail and thereby escaping justice. Of the conditions, the most important is the availability of the Defendant to stand trial. This of course underscores the issue of sureties who must be credible.

Our legendary Prof. of Law, Ben Nwabueze, SAN, a text book writer lent his voice on the significance of Human Rights which he opined that these rights are already possessed and enjoyed by individuals and that the *"Bills of Rights"* as we know them today *"created no right de-novo but declared and preserved already existing rights, which they extended against the legislature."*

The charge before this Court reveal offences that are Bailable. Courts have granted bail to Accused person who was arraigned for Treason.

See ***ABIOLA VS. FRN (1995) 1 NWLR (Pt. 155) (CA);***

DOKUBO VS. FRN (2007) LPELR (Pt. 958) (SC).

I am minded on the strength of all I have said therefore to grant the Accused person bail. I hereby grant Accused person Bail on the following terms and conditions:

1. Accused person shall produce two sureties who must be Civil Servants in the Federal Civil Service and not below the Rank of Director who must provide evidence of 1st Employment and Last promotion.
2. The Surety shall also write undertaking to produce the Accused person in Court throughout the hearing and shall be put in detention in the event that Defendant jumps bail.
3. Accused person must write an undertaking to be of good behaviour throughout his trial/bail and risk having same revoked.

Justice Y. Halilu
Hon. Judge
7th November, 2024

APPEARANCES

Maryam A. A, Esq. – for Prosecution.

Bobby Kadiri, Esq. – for the Defendant.