

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/042/2023
DATE: : TUESDAY 21ST NOVEMBER, 2023

BETWEEN:

INSPECTOR GENERAL OF POLICE

AND

**COMPLAINANT/
RESPONDENT**

- 1. LUCKY OSESUA**
- 2. HUMBLE OBINNA POWER**
- 3. DAYYABU GARGA**
- 4. AKINLOLU OLABISI**
- 5. GODWIN NWAKA**
- 6. TIAMIYU SIKIR**
- 7. ABDULMIMIN SHAIBU**
- 8. JOHN A.A. JUOYI**
- 9. ZAIRA AREGBO**
- 10. PATRICK ERPHIVWOR**
- 11. STEPHEN ORUMA OGHENERUEMU**
- 12. GIFT OYBO UKPONKU**
- 13. SUNDAY EZEOCHA**

**DEFENDANTS/
APPLICANTS**

RULING

Longe, Esq.: - We seek to withdraw the Motion for amendment filed and the charge filed.

All counsel: - No objection.

Court: - **Ruling**

Motion and the charge sought to be amended now withdrawn is hereby struck-out.

Prof, Ozekhome, SAN: - We have application for bail. It is supported by affidavit and written address which we hereby adopt, urging the Court to grant same in the interest of justice and fairplay. We have served the counter affidavit and written address of the Complainant... that cannot stand on the way of the application. We urge the Court to grant the application. We rely on ***OZOGUWU VS. STATE (2006) LPELR 7592 (CA).***

Longe:- We have filed our counter affidavit and written address which we hereby adopt, by urging the Court to refuse the Defendants bail in the overriding interest of justice and fairplay. We have annexed Exhibits to show that the Defendants have committed the offence. We submit that the Defendants' release on bail will jeopardize the investigation of this case.

Court:- **Ruling**

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 Prof. Ozekhome, SAN, for the Defendants on the one hand, and the reaction of Longe, Esq., on the other hand, on the issue of Bail. I will like to state 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 Defendants 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 reveals offences that are Bailable. Courts have granted bail to Accused persons who were 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 persons bail. I hereby grant them Bail on the following terms and conditions:

1. Each Accused person shall produce one surety who must be a Civil Servant in the Federal Civil Service and not below the Rank of level 12 with 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 they jump bail.

3. Accused person must write an undertaking to be of good behaviour throughout their trial/bail and risk having same revoked.

Justice Y. Halilu
Hon. Justice
21st November, 2023

APPEARANCES

F.A.O. Longe, Esq. with N.D. Eleodimuo, Esq. – for the Prosecution.

Prof. Mike A.A. Ozekhome, SAN., C.A.S. Oshomegie, SAN., – for the Defendants with Benson Igbanoi, Esq., Abubakar Sani, Esq., Dr. Okey Ezugwu, Esq., Okueyelegbe S.M., Esq., E. A. Igwe, Esq., C.J. Mbawuike, Esq., Frank C. Oha, Esq. Queen-Ubokutomi I. Umana, Esq., Oluchi Vivian Uche, Esq., Osilama Mike Ozekhome, Esq., Jemilat Odufa Ali (Miss), Okonima E. Esseh, Esq., Oyindamola Fasanya, Esq. and Osikhuemhe Mike Ozekhome, Esq.

Faith F. Dada, Esq. with Ezabela I. I., Esq. watching brief for the Nominal Complainant.