IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
HOLDEN AT ABUJA

THIS THURSDAY, 17TH DAY OF MARCH, 2022.

BEFORE: HON. JUSTICE ABUBAKAR IDRIS KUTIGI – JUDGE

CHARGE NO: CR/516/2019
MOTION NO: M/1730/2019

BETWEEN:

COMMISSIONER OF POLICE ..... COMPLAINANT/RESPONDENT

AND

1. JONAH TERKUNDE
2. JOHN SABO } **..... DEFENDANTS/APPLICANTS**

RULING

The Defendants were arraigned on a two counts charge as contained in the charge sheet dated 26th September, 2019. The Defendants pleaded not guilty to the two counts.

Learned counsel to the Applicants filed a motion for bail dated 9th March, 2020 and filed in the Registry of this Court on 10th March, 2022. In support of the Application is a 14 paragraphs affidavit with one annexure and a written address. The address dealt with the settled principles governing the grant of bail applications.

At the hearing, counsel to the Applicants relied on the paragraphs of the applicants' affidavit and adopted the submissions in the written address in urging the court to grant bail to the Applicants. The **Complainant** did not oppose the bail application and indeed did not file any counter-affidavit. The facts in support of the extant application are thus deemed in law admitted. At the hearing, counsel to the complainant left the issue of bail at the court's discretion.

I have carefully considered the totality of the depositions, the written submissions and oral adumbration on both sides of the aisle. The general principles that guide a court and the factors that the court will consider in determining whether or not to admit an accused person to bail pending trial have been well set out in the written address filed by counsel to the Applicant. I further refer to the authority of **Alaya V The State (2007) 16 N.W.L.R (pt.1061)483**, where the Court of Appeal held as follows:

"In the exercise of the discretion to grant bail to an accused person pending trial, the court has to consider the following:

(a) The nature of the charges;

(b) The character of the evidence;

(c) The severity of the punishment;

(d) The criminal record of the accused;

(e) The likelihood of repetition of the offence;

(f) Evidence that should applicant be granted bail, the witness for the prosecution may be interfered with or prevented from appearing to testify; and

(g) Whether the applicant if granted bail, would fail to attend court to face his trial: Obaseki Vs Police (1959) NRNLR149; Dantata Vs IGP (1958) NRNLR 3."

On the authorities, it is not expected that all the above listed criteria will be relevant in every case and they are also not exhaustive and any one of these criteria or in combination of others may be used to determine the question of bail in a particular case. See **Bamaiyi V. State (2001)8 N.W.L.R (pt.715)270.**

Now under the relevant provisions of **ACJA 2015**, precisely under **Section 161**, the defendants who are facing a charge punishable with death are ordinarily not admitted to bail except under exceptional circumstances streamlined under **Section 162 (2) (a) – (c).**

<u>Appearances</u>:

1. **Chinyere Moneme, Esq., for the Complainant with Charity Unogwu Esq.**

2. **Mimidoo P. Anundum, Esq., for the Defendants with Joyce M. Nkun, Esq.**