

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

THIS FRIDAY THE 24TH DAY OF NOVEMBER, 2022.

BEFORE: HON. JUSTICE ABUBAKAR IDRIS KUTIGI -- JUDGE

**CHARGE NO: CR/0212/2022
MOTION NO: M/8533/2022**

BETWEEN:

INSPECTOR GENERAL OF POLICECOMPLAINANT/RESPONDENT

AND

1. ENGR. HASSAN EL-HUSSEIN DEFENDANT/APPLICANT

**2. ALFAROCK GENERAL CONTRACTOR
NIGERIA LIMITED DEFENDANT**

RULING

The Defendant was arraigned under a charge dated 26th January, 2022 and filed same date in the Court's Registry for the offences of criminal conspiracy, criminal breach of trust and issuance of a dud cheque under the provisions of the Penal Code.

The Defendant pleaded Not Guilty and filed an application for bail. The application of Defendant is supported by a 17 paragraphs affidavit with ten (10) annexures marked as **Exhibits A-J** and a written address in support which dealt with the principles governing the grant of bail.

Learned counsel to the Applicant relied on the paragraphs of the supporting affidavit and adopted the submissions in his written address in urging the court to grant the application.

The complainant filed a counter-affidavit of fifteen (15) paragraphs. A written address was filed which equally addressed the settled principles governing grant of bail.

At the hearing, counsel to the Complainant relied on the paragraphs of the Counter-Affidavit and adopted the submissions in the written address in urging the Court to refuse the application.

I have carefully considered the processes filed on both sides of the aisle together with the oral submissions made by counsel. It is now common ground that the bail regime under the Administration of Justice Act (ACJA) is favourably disposed to the grant of bail especially in respect of offences that are bailable. See **Section 162 of ACJA**.

It is not in doubt that the nature of the offences for which the 1st Defendant/Applicant is charged in this case is such that entitles him to bail by virtue of the provision of **Section 162 of the Administration of Criminal Justice Act (ACJA) 2015** except circumstances are shown or established why he should not take the benefit of being admitted to bail. The complainant who is opposing bail has the bounden duty to furnish court with materials denoting precisely why bail should not be granted in the circumstances.

In this case, I have carefully considered the counter-affidavit filed by the complainant. The Counter-affidavit did not however support any of the allegations made therein with any material to put the court in any position to situate the veracity or credibility of the complaints. The Respondents for example admits that the Applicant was granted Administrative bail which he violated but the terms were not streamlined or identified and how it was violated was not stated.

If the Applicant is been investigated in other cases or other criminal allegations, there is nothing to situate the basis of these allegations and whether they infact exist and the court cannot speculate. The affidavit here are still bare assertions not supported by any evidence. These unsubstantiated averments does not give any indication as to what transpired in these cases and cannot be used as a basis to conclude conclusively that the Applicant will not be available to stand his trial.

As alluded to by counsel to the 1st Defendant, by the relevant provisions of the law relied on, the law presumes the 1st Defendant/Applicant innocent until the contrary is proved by the prosecution at plenary hearing. The salutary essence of bail is simply to ensure the presence of the 1st Defendant at the trial of the charge preferred against him.

In this case, there is nothing suggestive of the fact that the 1st defendant will if granted bail be unavailable to face his trial. There is similarly no question that the 1st Defendant will tamper with investigations in any manner or may interfere with witnesses or suppress the evidence which may be adduced at trial.

The bottom line really is that there is no feature or material that will prevent the court from properly exercising its discretion to grant bail to the 1st Defendant.

I accordingly grant bail to the 1st Defendant on the following terms:

- 1. Bail is granted to the 1st Defendant in the sum of N8, 000, 000 (Eight Million Naira) with one surety in the like sum.**
- 2. The surety must be proven and responsible Nigerian citizen who must be resident within the jurisdiction of this court.**
- 3. The 1st Defendant shall submit all his passports including any Nigerian, Diplomatic and Foreign with the Registrar of this Court.**
- 4. The surety shall be a civil/public servant not below Grade Level 12.**
- 5. The surety shall provide verifiable means of identification as a civil/public servant and place of abode.**
- 6. The surety shall depose to an affidavit of means.**

The Matter is adjourned to 16th February, 2022 for hearing.

Hon. Justice A. I. Kutigi

Appearances:

- 1. Peter Ejike, Esq., for the Complainant.**
- 2. V.S. Nwachukwu, Esq., with A.C. Anukoba, Esq., for the Defendant/Applicant.**