

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. 13
CASE NUMBER : SUIT NO: CV/5514/2024
DATE: : WEDNESDAY 5TH MARCH,
2025

BETWEEN:

FELIX OMOREGIE APPLICANT

AND

1. INSPECTOR GENERAL OF POLICE
2. COMMISSIONER OF POLICE
(INTERPOL) FORCE HEADQUARTERS
ABUJA.

RESPONDENTS

RULING

The Applicant vide an Originating Motion approached this Honourable Court for the Enforcement of his Fundamental Right Pursuant to Section 46 of the Constitution of the Federal Republic of Nigeria.

The Applicant is praying the court for the following reliefs:

1. An Order of the Honourable Court admitting the Applicant to Court Bail who has been in 1st and 3rd Respondents' custody languishing through CP Interpol for the past 150 days (12th July 2024 to 16th December, 2024 without Police Administrative bail pending his arraignment and trial.
2. An Order of this Honourable Court directing 1st and 2nd Respondents particularly the 2nd Respondent for the production of the Applicant detained at Force CID Police Cell for the past 150 days before this court and inquire into the circumstances constituting the grounds of the detention and to admit the Applicant to bail.
3. An Order of the Honourable Court admitting the Applicant to Court bail on liberal terms because the Applicant is seriously sick and his health deteriorating at Force CID Police Cell and

has been taken to Area 1 General Muhammad Buhari Police Hospital by Police officers all to no avail.

4. A Declaration that the arrest and detention of Applicant in the police detention cell at FCID Area 10 Garki, Abuja. For 150 days between 12th July to 16th December, 2024 by the 2nd Respondent for undisclosed offence known to law except speculative allegation of human trafficking of unknown person to the applicant is wrongful, illegal, unwarranted, unconstitutional, contemptuous and a gross violation of the Applicant's Fundamental Right to personal liberty as guaranteed under Section 35 of the constitution of the Federal Republic of Nigeria 1999 (as amended).
5. ₦10 million on the footing of exemplary damages by the Respondents in that the Applicant Edo man who returned to Nigeria on 11th November 2019 with valid ticket never had criminal record but was without any legal justification arrested by the 2nd Respondent and was detained for the past 136 days (12th July to 16th December, 2024) and was denied access to good food, medication, telephone and was stripped half naked as he was only allowed to wear his underwear and was forced to sleep on a bared floor in a poorly ventilated,

overcrowded, dingy, smelly, mosquito and bed bug infected police cell which was oozing out with foul odour.

6. An Order of the Court abridging the time allowed by the fundamental human right rules 2009 to 48 hour; on the service of the originating motion on the Respondents for the hearing of the application.
7. An Order of Court directing the 2nd Respondent to lift the PND that was placed on Applicant's (1) 2 UBA accounts (2) 2 First Bank account (3) Zenith bank account (4) 1 Union Bank account all in the name of the Applicant and domiciled at Benin City for no crime linked to the account.
8. And for such Further or Other Orders as the Honourable Court may deem fit to make in the circumstance.

The grounds upon which the application is brought are as follows:

1. By virtue of Section 36(4) of the 1999 Constitution of the Federal Republic of Nigeria 1999 (as amended), the Applicant is entitled to be charged to court within 48 hours of his arrest or released on administrative bail.
2. By virtue of Section 36(5) of the 1999 constitution of the Federal Republic of Nigeria, the Applicant is presumed

innocent until the contrary is proved and long detention of the Applicant for 150 days is an exceptional circumstance that the court will consider in the ground of bail to the Applicant.

3. The Applicant is entitled to his fundamental rights to dignity of human person, personal liberty, freedom of movement, right to fair hearing rights against humiliation as guaranteed by Sections 34, 35, 36 and 41 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and article 4, 5, 6, 12 and 22 of the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act.
4. By Sections 159 (1)(2) of the Administration of Criminal Justice Act 2015, it is the power of Court to Order person in custody to be brought before it the Honourable Court can exercise this discretion by admitting the Applicant to bail.
5. That Section 64(1) of the police Act 2020 where a suspect taken into custody in respect of a non-capital offense is not released on bail after 24 hours, a court having jurisdiction with respect to the offence may be notified by application on behalf of the suspect.
6. By section 64(2) of the Police Act and Regulation and section 32 (1) (2) (3) of Administration of Criminal Justice Act 2015

the Court shall order the production of the suspect detained and inquire into the circumstances constituting the grounds of the detention and where it deemed fit admit the suspect detained to bail, which application can be oral or in writing.

7. Contrary to the legal mandate of the respondents, they are no harassing intimidating the applicant by long detention in Police Cell in a bit to coerce him to admit that he has knowledge of human trafficking.
8. The Applicant had no misunderstanding with anybody while abroad and in Nigeria, talk less issue of human trafficking.
9. That the Respondents particularly 2nd respondent framed the Applicant up and alleged that Applicant was involved in human trafficking of an unknown person where upon 2nd Respondent detained the Applicant for the total of 150 days without police administrative bail.
10. That up till the date of filing this Application there is no petition against the Applicant shown to him from anybody and no criminal charge preferred against the Applicant by the Respondents in any court in Nigeria but the applicant was merely dumped inside Force Criminal Investigation Department Police Cell as directed by 2nd Respondent in a bit

to punish the Applicant and dispossess him of his personal effect including some ATM card, international passport, international ATM and Applicant wife's ATM.

11. The acts of the Respondents are in clear breach of the fundamental rights of the Applicant to personal liberty freedom of movement and respect to dignity of his human person as enshrined in the constitution of Nigeria.
12. That bail is at the discretion of the Honourable Court which the Honourable Court can exercise his discretion judicially and judiciously in matters that are purely bailable in nature as in this present circumstance.
13. The applicant has been in the Police detention at Force CID Police cell since 12th July, 2024 till 16th December, 2024 without arraignment.
14. That the Applicant solicitors had made several applications to the 2nd respondent to secure police administrative bail of the applicant but all efforts were truncated and aborted by the investigating police officers.
15. That there is no Court Order from High Court or Federal High Court remanding the applicant in police custody for the 150

days notwithstanding the fact that he is sick now in the police cell.

16. That the applicant is entitled to fair hearing as he is presumed innocent at this stage.

17. That it is their prayer for the Honourable Court to grant this application in the best interest of justice and fair hearing.

In support of the application is a 31 paragraph affidavit deposed to by Amanoh Ikenna Richard, a staff attached to counsel to Applicant in this suit.

It is the deposition of Applicant, that up to the time of this application there is no known crime committed by the Applicant and there is no police invitation served on the Applicant over any case pending in any police station including Interpol Abuja before the 2nd Respondent arrested him over an alleged and speculative rumor relating to Human trafficking of unknown person.

That the 2nd Respondent framed the Applicant up and alleged that Applicant was involved in Human trafficking of unknown person abroad whereas the Applicant lived successfully in Italy and returned to Nigeria without any security challenge.

That the 2nd Respondent up to the time of this application has refused to show to the Applicant any petition from anybody accusing him of Human trafficking but that the 2nd Respondent only subjected the Applicant to already made question and answer statement and compelled him to sign same against his wish and under duress without his Lawyer being present or his relative.

That the Applicant is entitled to the protection of his fundamental human right by this Honourable Court.

That the Applicant by the frustration of the Respondents Particularly the 2nd Respondent is entitled to the award of adequate compensation for the damages suffered, but will be abandoned here but just ask for his bail from the Court.

That the applicant now relies on this Honourable Court to protect his constitutionally guaranteed rights so as to avoid any further violation of the guaranteed rights by the Respondents. That hearing this application in due time due to the pending violation will be in the best interest of justice.

That the urgent hearing of this application will not prejudice the Respondents in any way but it is in the interest of justice for the grant of this Application.

That the Applicant has suffered emotional and psychological trauma as a result of the infringement of his right particularly from the 2nd Respondent which is calculated to intimidate and embarrass the Applicant.

That there is no known criminal allegation or criminal charge against the Applicant by the Respondents known to Law. That the problem between the Applicant by the 2nd Respondent drastically affect the mental reasoning of the Applicant.

That the Applicant's arrest and transfer to Abuja from Edo state on the 12th day of July, 2024 is a staged managed arrest.

That the Applicant's fundamental rights guaranteed and protected by Law has been, is being and is likely to be grossly abused and violated by the Respondents herein with every impunity and alacrity under guise of investigation of human trafficking.

That the act of the respondent by arresting Applicant at Edo State without any petition amounts to violation of the fundamental right of the Applicant.

That it is in the interest of justice as a matter of fact that the respondents should be restrained from further infringing on the Applicant's Fundamental Rights.

That the Applicant returned to Nigeria from Italy on the 11th day of November, 2019 and has never been involved in any crime (Attached as Exhibit "A" in the ticket)

That the Applicant had in his possession and for his personal use, his ATM cards including his international ATM card but all were carted away by the 2nd Respondent including, Applicant wife's ATM at the point of Arrest.

That the Applicant has been sick and currently sick inside Force CID Police Cell for some time now and may continue unless granted bail by this court to enable him see his doctor.

That the Applicant before he returned to Nigeria was working in Italy and had no problem with anybody and even on his arrival in Nigeria he had no case with anybody.

That the problem the 2nd Respondent is propagating for the Applicant is unknown to the Applicant.

That the Applicant had no friend both in Italy and in Nigeria that wrote against him with respect to the allegation against him from the 2nd Respondent.

That the Applicant without any hesitation drove himself on the 12th day of July 2004 to UBA bank Benin City where the 2nd

Respondents led siege and arrested the Applicant. That unless this Honourable Court intervenes, the Respondents will continue to trample on the right of the Applicant.

That it will serve the best interest of justice to grant the reliefs sought in this application.

That the Respondents will not be prejudiced in any way if this application is heard and granted.

In line with procedure, written address was filed wherein sole issue was formulated for determination to-wit;

"Whether the Applicant has made out a case to be entitled to a grant of bail by this court and other reliefs."

It is the submission of learned counsel, that the fulcrum of this instant case is the fact that the Applicant came into Nigeria from Italy without any criminal record and that in Nigeria no known criminal offence is lodged against him except this present allegation against him which he has no hand in. The major focus of the Respondent was just to punish the Applicant for offence he does not know. The Respondent had no plausible justification for the arrest and detention of the Applicant.

Learned counsel further submits, that under the inherent jurisdiction of the honorable court and the Rules of the court, the court is empowered to consider every application and exercise its discretion one way or the other. Counsel cited Section 36 (5) of the constitution of Federal Republic of Nigeria 1999 as amended which states that every person who is charged with a criminal offence shall be presumed to be innocent until proven guilty.

Learned counsel cited ***ADEGBITE V. CO.P (2006) 13 NWLR (PT. 997) P.252 @269, R 2*** where the court said an accused that 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 special circumstances militating against his admission to bail are shown to exist.

Learned counsel further submits, that whether the Applicant is entitled to bail the answer has already stated on the argument which means the applicant is entitled to bail provided by the Law.

Learned counsel submits, that it is clearly stated that the court must not refused the accused person bail as a punishment this is because the accused person is usually presumed innocent until proven guilty. ***DOGO V CO.P (1980) 1NCR.14*** was cited.

Learned counsel also submits, that the power to grant bail is at the discretion of the court which the court must exercise judicially and judiciously. **EMMANUEL CHINEMELU V CO.P (1995) FOR NWLR (Pt.399) (463)** was cited.

This court is urged to adopt the view expressed in **OBEKPA V CO. P (1981) 2 NCLR 420 at 422** to the effect that, the court should adopt a liberal approach in considering application for bail in order not to frustrate the spirit of Chapter (IV) of the almighty constitution of the Federal Republic of Nigeria 1999 as amended. It will be in the interest of justice for the court to exercise its discretion in favour of the Applicant and grant the reliefs on the face of the motion paper.

To further underscore the importance of the protection of human rights, learned counsel referred this court to the case **DIBIA VS. IGWE (1998) 9 NWLR (Pt.564) 78 AT 85** where the Court of Appeal held: **"Where a man's liberty is at stake very requirement of the law must be strictly complied with."**

Learned counsel submits that indeed, the Applicant's rights to personal liberty dignity of human person and freedom of movement, fair hearing and privacy have been flagrantly and violently breached, and further that the Applicants is entitled to

the reliefs sought as contained in the instant Application before this Court. The Law was as enshrined in Section 34(b) of the CFRN 1999 is to the effect that every individual is entitled to respect for the dignity of his person and accordingly, no one shall be subjected to torture or to inhuman or degrading treatment. (Emphasis supplied).

Learned counsel further submits, that it is the law that once there is proof of intention of the Fundamental Rights of an Applicant under Sections 34, 35 and 41 of the 1999 constitution (as amended) the Applicant is not only entitled to damages but is also entitled to a public apology ***GABRIEL JIM-JAJA VS. COP RIVERS STATE & 2 ORS (2013) 22 WRN PG 39*** was cited.

Learned concludes by submitting that the Applicant's Fundamental Rights as stated above have been grossly violated and is likely to be breached on the strength of the facts contained in the Affidavit in support legal argument canvassed above, a man should be allowed to tread in the Nigerian soil and breath Nigerian air until the court finds him unworthy to so do.

Learned counsel prays this court to so hold, and grant the Application.

COURT:-

I have read carefully the affidavit in support of the application of the Applicant for the enforcement of Fundamental Right.

Fundamental Rights have been said to be pre-modal.. some say it is natural or God given Rights.. Text books writers like the renowned Professor Ben Nwabueze (SAN) have 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".

It is instructive to note that the Magna Carta 1215 otherwise called "Great charter," came to being as a result of the conflict between the king and the barons, and petition of rights 1628 which is said to embody sir Edward Coke's concept of "due process of law" was also a product of similar conflicts and dissensions between the king and parliament.. nor was the Bill of Rights 1689 handed down on a "platter of Gold".. that bill drawn by a young barrister John Somers in the form of declaration of right, and assented to by king Williams secured inter-alia for the English People, freedom of religion, and for judges, their independence.

England has no written Constitution with or without entrenched human Rights provisions, however, the three bills of rights alluded to earlier, formed the bed rock of the freedom and democratic values with which that country has to this day been associated.

On the part of French People, the French revolutionaries had to attack the Bastille, the Prison house in Paris, to proclaim the declaration of rights of man and citizen in 1789.. the object of the revolution was to secure equality of rights to the citizen.. two years after, American people took the glorian path of effecting certain amendments.. they incorporated into their constitution, a Bill of rights which is said to be fashioned after the English Bill of Rights..

It is noteworthy that ever before the amendment of its constitution, the Americans had to fight a war of independence in 1776 and had proclaimed thus:-

"We hold these truths as self-evident, that all men are created equal, that they are endowed by their creator with certain inalienable rights that among these are life, liberty and pursuit of happiness."

It can therefore be gleaned from history that the pursuit of freedom, equality, justice and happiness is not peculiar to any race or group. It is indeed a universal phenomenon, hence man has striven hard to attain this goal.

The universal declaration of human rights which was adopted by the United Nation General Assembly on the 10th December, 1948, three years after the end of the 2nd world war, was mainly geared towards ensuring a free world for all, regardless of status.

Nigeria did not have to fight war to gain independence from the British.. it was proclaimed that our independence was given to us on a "platter of gold."

What the minority groups demanded was the right to self-determination which they believed could offer them an escape route from the "tyranny" of the majority ethnic groups in the regions.

The commission that investigated their fears went out of its way to recommend the entrenchment of Fundamental Human Right in the Constitution as a palliative, as a safeguard and as a check against alleged "oppressive conduct" by majority ethnic groups.

We have had our Fundamental Human Rights carefully captured and entrenched under chapter IV of the 1999 constitution of the Federal Republic of Nigeria as amended.. as sacrosanct as those rights contained in chapter IV of the Constitution of Federal Republic of Nigeria are, once there is any good reason for any of the rights to curtailed, they shall so be and remain in abeyance in accordance with the law and constitution.

Fundamental Human Right Enforcement Rules is not an outlet for the dubious and criminal elements who always run to court to seek protection on the slightest believe that they are being invited by law enforcement agencies..

The essence of this legal window is to ensure that every action by government or her agencies are done according to law.

I shall beam my search light on the application to ascertain whether a case of breach of Fundamental Right is established.

It is the evidence of Applicant as distilled from his affidavit that he up to the time of this application, there is no known crime committed by the Applicant and there is no Police invitation served on the Applicant over any case pending in any police station including Interpol Abuja before the Respondent arrested him over alleged and speculative rumour relating to human

trafficking of unknown person. That the 2nd Respondent only subjected the Applicant to already made question and answer statement, and compelled him to sign same against his wish and under duress without his lawyer being present or his relative.

It remains trite that facts deposed to in affidavit that are not challenged are deemed admitted and acted upon by the Court. See ***MADU VS THE STATE (2011) LPELR 3973.***

Once a party has averred to facts in an affidavit, it behoves on the adverse party to contradict those facts in a counter affidavit if they do not represent the true position. The exception to this general rule however is where averments in the affidavit in support of an application are contradicting or if taken together are not sufficient to sustain the Applicant's prayers, then a counter affidavit is most unnecessary.

See ***CHIJOKE AGU VS. OKPOKP (2009) LPELR 8280 (CA);***
ORUNLOLA VS ADEOYE (1996) NWLR (Pt. 401).

The question that naturally follows is, from the affidavit in support of the application in view, can it be said that the Applicant has established the case of breach of its Fundamental Human Right against the Respondents?

On their part, 1st and 2nd Respondents did not file any process before this court.

Be it known that it is the constitutional duty of court to develop the common law, and to so do that within the matrix of the objective and normative value suggested by the constitution and with due regard to the spirit, purport and object of the bill of rights.

It is equally the legal duty of police to protect citizen through law and structures designed to afford such protection. There is the need for the police to have regard to the constitutional provision and a bindingness of bill of right on the state and its structure.

Permit me to observe that detention, no matter how short can amount to breach of Fundamental Human Right. But that can only be so if the detention is adjudged wrongful or unlawful in the first place, that is if there is no legal foundation to base the arrest and or detention of the Applicant.

Where there is basis, the detention must be done in compliance with the provisions of law and in line with civilized standard known to modern society.

It is true that the police have a duty to protect life and property and to detect crime. All these must be done within the confines of the law establishing the police and the constitution of Federal Republic of Nigeria 1999 as amended and under the Police Act. Section 4 of the Police Act provides thus;

"The Police shall be employed for the prevention and detention of crime, the apprehension of law and order, the protection of life and property and the due enforcement of all laws and regulating with which they are directly charged, and shall perform such military duties within or without Nigeria as may be required by then by; or under the authority of, this or any other Act."

The law on the determinant factor of action to be brought under fundamental human right (enforcement procedure) 2009 is well settled. Only actions founded on breach of any of the Fundamental Human Right guaranteed under Chapter IV of 1999 constitution as amended can be enforced under the Rules. ***WAEC VS. AKINKUMI (2008) 4 (SC) 1.***

It is pertinent to state here, that the liberty to make any accusation is circumscribed both by the right to make it, the duty

not to injure another by the accusation, and the right of any person wrongly accused and injured thereby to seek appropriate redress in the court. The courts have been established to protect both rights where validly exercised. They are not established to protect the citizen who falsely even if erroneously, believes in the exercise of a right.

AKILU VS FAWEHINMI (NO. 2) 1989 (Pt. 102) 122.

An invitation by the police as is now a notorious fact is usually for the purpose of obtaining a statement from the invitee. Such an invitation usually may end up in the invitee being released or detained. In the instant case, the Applicant in paragraph 27 of his Affidavit in support of the application for enforcement of his Fundamental Human Right stated that he was arrested on 12th July 2024 when he drove himself to UBA Bank, Benin City where the 2nd Respondents led siege and arrested him.

To my understanding, Applicant has been in detention since then.

Permit me to state at this juncture, that although an accused person is presumed innocent until he is proven guilty under Section 35 of the 1999 constitution of Federal Republic of Nigeria as amended, such a right is not absolute.

I am influenced more than ever before by the conviction that social equality is the only basis for human happiness.

Fundamental Human Right Procedure is an outlet available for people who are straight forward and God fearing and not for those who are ungodly, dubious and crafty.

The rules governing affidavit evidence and, in fact, any pleading, is that when a fact or facts, asserted, is not denied or controverted by the adverse party, who has a duty to so do, same shall be deemed to have been admitted by the person and the court will be justified to rely on the fact and use it to settle the issue in controversy, if the asserted facts is plain.

See ***ADEBIYI VS UMAR (2012) LPELR – 7998 (CA)***.

Applicant who has approached the court for enforcement of his fundamental human rights has done so without the respondents countering any of the allegations. Even after hearing notice was served on them.

In the absence of any other reason, the said reliefs "1", "2" "3", "4", "6" and "7" must succeed.

Accordingly, the following reliefs are hereby granted:

1. An Order of the Honourable Court admitting the Applicant to Court Bail who has been in 1st and 3rd Respondents' custody languishing through CP Interpol for the past 150 days (12th July 2024 to 16th December, 2024 without Police Administrative bail pending his arraignment and trial **is hereby granted.**
2. An Order of this Honourable Court directing 1st and 2nd Respondents particularly the 2nd Respondent for the production of the Applicant detained at Force CID Police Cell for the past 150 days before this court and inquire into the circumstances constituting the grounds of the detention and to admit the Applicant to bail **is hereby granted.**
3. An Order of the Honourable Court admitting the Applicant to Court bail on liberal terms because the Applicant is seriously sick and his health deteriorating at Force CID Police Cell and has been taken to Area 1 General Muhammad Buhari Police Hospital by Police officers all to no avail bail is **hereby granted.**
4. A Declaration that the arrest and detention of Applicant in the police detention cell at FCID Area 10 Garki, Abuja. For 150 days between 12th July to 16th December, 2024 by the 2nd

Respondent for undisclosed offence known to law except speculative allegation of human trafficking of unknown person to the Applicant is wrongful, illegal, unwarranted, unconstitutional, contemptuous and a gross violation of the Applicant's Fundamental Right to personal liberty as guaranteed under Section 35 of the constitution of the Federal Republic of Nigeria 1999 (as amended) **is hereby granted.**

5. An Order of the Court abridging the time allowed by the fundamental human right rules 2009 to 48 hour; on the service of the originating motion on the Respondents for the hearing of the application is **hereby granted.**
6. An Order of Court directing the 2nd Respondent to lift the PND that was placed on Applicant's (1) 2 UBA accounts (2) 2 First Bank account (3) Zenith bank account (4) 1 Union Bank account all in the name of the application and domiciled at Benin City for no crime linked to the account is **hereby granted.**

Next is relief of exemplary damages.

Exemplary damages are awarded beyond compensatory damages to punish a defendant for egregious or unconstitutional conduct, and to deter similar actions in future.

See ***ODIBA VS AZEGE (1998) 9 NWLR (Pt. 566) 370***

Having kept the Applicant for an unreasonable period of time, the relief for exemplary damages becomes most necessary. Human rights as provided for under chapter IV of the 1999 constitution of Federal Republic of Nigeria as amended, are inalienable and unquantifiable. No amount can buy human right. The attitude of the Nigeria Police most time is tyrannical and unprofessional. Era where suspects are meant to serve sentence in police dungeon before arraignment and conviction is gone. Police must learn to limit itself with the confines of law.

Human beings no matter the offence alleged to have been committed, must be presumed innocent in line with the constitutional provision.

I hereby award **N2,000,000.00 (Two Million Naira)** against the Respondents.

Above is the Ruling of this Court.

***Justice Y. Halilu
Hon. Judge
5th March, 2025***

APPEARANCES

Chief Igwe E.A., Esq. – for the Applicant.

Respondent not in Court and not represented.