

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/260/2024
DATE: : WEDNESDAY 5TH JUNE, 2024

BETWEEN:

**FEDERAL REPUBLIC OF NIGERIA } COMPLAINANT/
RESPONDENT**

AND

**1. KATSINA TERFA (M) } DEFENDANTS/
2. AMENGER ALPHONSUS (M) } APPLICANTS
3. LAASCOOPS MULTIPURPOSE COOP.
SOCIETY LIMITED }**

RULING

This is a Consolidated Ruling on applications for Bail at the instance of 1st and 2nd Defendants/Applicants vide Motion on Notice dated 22nd April, 2024 and filed same day.

The following reliefs are therein sought, as follows:-

1. An Order of this Honourable Court admitting the 1st and 2nd Defendants/Applicants to bail pending the hearing and determination of the substantive Case.
2. And for such further or other Orders as the Court may deem fit to make in the circumstances.

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

1. Offences upon which the Applicants are charged are bailable.
2. The Applicants have been on administrative bail without breaching the terms and conditions therein.
3. This Honourable Court has the discretionary powers to grant bail to the Applicants.
4. The Applicants have credible surety to take them on bail.

5. Applicants would never jump bail if bail is granted.

In support of their application, Katsina Terfa, the 1st Defendant/Applicant in this case and Amenger Alphonsus, 2nd Defendant/Applicant in this case deposed to affidavits respectively. Both affidavits are one and the same, thus, 1st Defendant/Applicant's shall be reproduced herein.

It is the deposition of the Applicant, that he was invited by the operatives of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) sometime in 2022, arrested, detained and granted bail by the ICPC operatives.

That he had been on administrative bail since 2022 and he had never jumped bail but have been honouring all the invitations of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) investigation team from time to time as they invited him.

That on 20th October, 2022, he was granted administrative bail by the operatives of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and he has been faithful to the terms and conditions granted by the Independent Corrupt Practices and Other Related Offences Commission (ICPC).

That he was invited again on 21st October, 2022 by the investigation Team of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and he honored their invitation.

That he was also invited again by the Independent Corrupt Practices and Other Related Offences Commission (ICPC) Investigating Team on 4th May, 2023 and he honored their invitation without any protest.

That he was further invited by the ICPC investigation Team on 8th May, 2023 and he honored their investigation without any excuse.

That on 22nd August, 2023, he was further invited by the Operatives of the ICPC, the Investigation Team and he honored the invitation faithfully.

That on 19th April, 2024, he was equally invited by the Operatives of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) and he honoured the invitation wherein he received service of the Charges against him on the same date from the Independent Corrupt Practices and Other Related Offences Commission (ICPC) Lawyers and he would be in court on 25th April, 2024 for his arraignment by the grace of God Almighty.

That he is presently working under the Director Secretary to the Government of the Federation (SGF) as a Grade Level 14 Officer.

That allowing him to remain on the terms and conditions granted to him by the Independent Corrupt Practices and Other Related Offences Commission (ICPC) he would not jump bail of this noble court and he would attend his trial to conclusion.

That he was the Chairman of the Land Committee of the Cooperative Society when the landed property in issue was bought and he was the President when the said property was sold and he know as a fact that no one gave him money to buy the said landed property and he never authorized any of his Excos to report a case to the ICPC on behalf of the Cooperative Society as the Chief Executive Officer of the Cooperative.

That since he has been on the administrative bail he has not jumped bail, and that if he is released on bail he will abide by the terms and conditions of bail as he did during the time of his administrative bail. That he will not jump bail but attend to his trial to conclusion and will not commit any other offence or interfere with further investigation in this case or any other case.

That he has reliable surety(s) who is/are ready to stand for his bail and ensure that justice is achieved in this case, and that he

has never committed an offence before and has never jumped bail before as he has no criminal record against his person.

That he knows as a fact that the offences upon which he is charged are bailable and this Court has the powers to grant him bail.

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

Whether this Honourable Court has the discretion to grant the Reliefs Sought by the Applicant.

It is the submission of learned counsel, that this Honourable Court has the discretion to grant the Reliefs sought by the Applicant in this Application. An Application of this nature invokes the discretionary powers of the Court. Counsel submits, that this Honourable Court has the discretion to grant the reliefs sought by the Applicant in this Motion.

Learned counsel submits, that the law is that any person who wants the court to exercise discretion in his favour has to place materials before the court to enable it exercise discretion in his favour. ***LIVESTOCK FEEDS PLC VS. FUNTUA (2005) FWLR***

(PT. 286) P. 753 at PP 770-771, PARAGRAPH H-D was cited.

Learned counsel further submits, that in all the paragraphs of the Affidavit in Support of the Motion particularly paragraphs 3-20, the Applicant has placed before this Honourable Court facts in affidavit as material evidence in support of the facts stated therein. The facts in affidavit constitute sufficient materials before this Honourable Court to enable the court exercise its discretion in favour of the Applicant.

Section 158 of the Administration of Criminal Justice Act, 2015 and

IBIKUNLE VS. STATE (2007) ALL FWLR (PT.354) 209 AT 241 PARAGRAPHS A-B;

OKIYE VS. STATE (2014) ALL FWLR (PT. 756) 555 AT 583 PARAGRAPHS A-B were cited.

Learned counsel concludes by urging this Honourable court to grant the reliefs sought by the Applicant vide this Motion in the interest of justice.

COURT:

I have considered the said application seeking the Bail of the Defendants 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 Defendants 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 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 reveal 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 person bail. I hereby grant them Bail on the following terms and conditions:

1. They shall produce two (2) sureties each who must be Civil Servants of the Rank of Deputy Directors in any Federal Parastatal with evidence of last promotion.
2. Sureties shall be residents of the FCT and must own property in Abuja and shall submit Original Title Documents of the said houses to the Registrar of this Court.
3. Sureties shall equally write undertaking to produce the Accused persons at all times of their trial and shall be put in

Jail in the event that Accused persons jump Bail and shall
forfeit such properties to Federal Government Nigeria

Justice Y.
Halilu
Hon. Judge
5th June, 2024

APPEARANCES

E.S. Osiaje, Esq. – for the Prosecution.

D.K. Yenge, Esq. – for the Defendants.