

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. 22
CASE NUMBER : CHARGE NO: CR/807/2020
DATE: : WEDNESDAY 30TH SEPTEMBER, 2020

BETWEEN

**INSPECTOR GENERAL OF POLICE } COMPLAINANT/
RESPONDENT**

AND

**1. MUHAMMED GARBA } DEFENDANTS/
2. NAZIFI IDRIS IBRAHIM } APPLICANTS
3. MGB GLOBAL MARKET LIMITED }**

RULING

This Ruling is at the instance of the Defendants/Applicants who approached this Honourable Court to review the bail conditions earlier granted to the Defendants.

The Applicants sought for an Order of Court reviewing and/or varying the bail conditions granted to the Applicants on the 18th June, 2020.

The grounds upon which the application was brought are as follows:-

- i. This Honourable Court made an Order admitting the Applicant to bail on the 18th June, 2020 but the conditions imposed are practically impossible for the Applicant to fulfill.
- ii. That the Applicant who is based and reside in Kano State is required to produce two sureties with

landed properties in their name within Abuja and the sureties must deposit a Bank Cheque in their personal names covering the sum of N40,000,000.00.

iii. That the Applicant's contacts, relatives, friends are in faraway Kano State, hence the likelihood of him meeting the bail conditions imposed for his released by the Court.

iv. That the Applicant's relations and friends who are resident in Abuja are Civil Servants and business people who does not own personal properties in Abuja and living in rented apartments.

In support of the application a 4 paragraph affidavit duly deposed to by One Paul Timothy a Litigation Secretary in the law firm of the counsel to the Applicant was filed.

It is the deposition of the Applicant that the Applicants were granted bail on the 18th June, 2020 and were required to produced two sureties who must be residents of Abuja with landed properties in their names and a bail bond in the sum of N40,000,000.00 (Forty Million Naira Only) to be covered by bank cheque in their personal name.

That the Applicants have Civil Servants who are of grade levels 10 to 13 working in Abuja that are willing to guarantee or stand surety for him and that if the court vary the bail, the will meet the conditions.

In line with law and order, a written address was filed wherein a sole issue to wit; *whether this Honourable Court has the inherent power to review and/or vary the bail conditions granted to the Applicant* was formulated for determination.

Arguing on the above, learned counsel submit that Sections 158 to 188 of the Administration of Criminal Justice Act, 2015 empowers this Honourable Court to grant/review bail terms where they are impracticable for the Applicant to fulfill/meet, the requirement of the bail.

Learned counsel argued further that it does not speak or say well of the court or our Justice System, that when bail is granted with one hand, it is surreptitiously retrieved, withdrawn or taken away with the other hand by imposition of unwieldy and punitive bail conditions.

***IBORI VS FRN (2009)3 NWLR Pt. 1127 at Page 106
Para A-B.***

Court was finally urged to grant the Applicant.

In reaction, Lough of counsel filed a counter affidavit of 18 paragraph duly deposed to by One Sgt. Jonah

Atia Police Officer with the Legal Department of the Prosecution on behalf of the prosecution.

It is the deposition of the Prosecutor that the offences for which the Applicants are standing trial is ordinarily not bailable except on exceptional circumstances and that the Applicants were granted bail by this Court on 18th June, 2020 on very liberal terms and conditions, and that reducing the bail conditions will enable the Applicants escape Justice and it will delay the Prosecution of this case.

In line with law, a written address was filed wherein the issue *whether the Applicant have satisfied the requirements provided in Section 173(2)(a) of the ACJ Act 2015 to be entitled to variation of the condition of bail granted him was formulated for determination.*

Arguing on the above, learned counsel argued that the Applicant did not place before the court any material to warrant the grant of this application and that the criteria for granting bail was duly complied with before bail was granted to the Applicant on the 18th June, 2020.

Counsel cited and relied on *BAMAIYI VS STATE (2001)8 NWLR Part 715 Page 270 at 274*, in urging the court to refuse the application.

Court: It is instructive to note that bail was earlier granted Defendants/Applicants on the 18th June, 2020 but were unable to meet the conditions hence the application.

Bail is a constitutional right of an accused person and it is contractual in nature. The effect of granting bail is not to set the accused free for all time in the criminal process but to release him from the custody of the law

and entrust him to appear at his trial at a specific time and place.

Indeed, application for bail pending trial is generally a matter of course unless some circumstances militate against the grant of it, bail pending trial is a constitutional right, the burden therefore is on the prosecution who opposes bail to prove that facts relied upon by the Applicants, do not warrant granting the application. This is because of the constitutional presumption that a person is innocent until proved guilty. Section 36 (5) of the 1999 constitution as amended, is instructive.

In the case under consideration, Defendants who are already on bail stated that they resides in Kaduna and that they do not have contact here in Abuja who have landed property but only civil servants from grade

levels 10 to 13, and that the bail condition once varied would be met.

Whereas the Prosecution stated that by varying the bail conditions, Defendants would jump bail and that may affect the Prosecution of the case.

In the court's opinion, the prosecution has not stated any cogent reason why the bail conditions should not be varied.

A court has discretion to admit an accused to bail and or vary the bail condition or not and the definition of discretion is base on personal judgment and conscience of the judge.

My conscience as a judge has been appealed in favour of the accused/Applicants.

The conditions attached to the bail earlier granted is hereby varied, as follows:-

- a) Each accused shall provide two sureties who must be level 12 and above in any Federal Agency, who must produce photocopy of Identity Card and evidence of their last promotion.
- b) The sureties must deposit undated cheque in favour of the Chief Registrar of this Honourable Court in the sum of N20,000,000 (Twenty Million Naira Only) each.
- c) The surety shall write a letter of undertaking to produce the Defendant in court till the conclusion of the case.

Justice Y. Halilu
Hon. Judge
30th September, 2020

APPEARANCES

A.S. AKPENPUUN – for the Defendants.

Prosecution not in court.