

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT APO - F.C.T. - ABUJA

CLERK: CHARITY
COURT NO. 15

SUIT NO:FCT/HC/CR/163/20
GWD/M/95/2020
DATE:10/12/2020

BETWEEN:

INSPECTOR GENERAL OF POLICE..... COMPLAINANT

AND

HASSAN GULU HUSSEINI.....DEFENDANT

RULING
(DELIVERED BY HON. JUSTICE S. B. BELGORE)

In this application vide a Motion on Notice M/95/2020 dated and filed on 16/3/20, the Defendant/Applicant prayed essentially for an order admitting him to *bail* pending trial. The application is premised on S.35 (5) of the 1999 Constitution (as amended) and S.158, 162, 163 and 164 of the Administration of Criminal Justice Act 2015.

In support of the application is a 21-paragraphs affidavit deposed to by one Hassan Gulu and a written address.

A few minutes ago, the learned Counsel to the applicant - M. I. MbangEsq. moved the application *brevimanu*. He relied on all the deposition in the supporting affidavit and adopted the written address as his argument. Learned Counsel urged me to grant the application.

It would be recalled that the Defendant/Applicant - Hassan Gulu Husseinini was arraigned in this Court on the 8/12/20 on a

3-counts charge of lying with intent to *defraud* contrary to S.1 (a) (c) of Advance Fee Fraud and other Related Offences Act, Criminal breach of trust *contravening* to S.312 of the Penal Code and fraudulently receiving the sum of **N4,950,000.00** (Four Million, Nine Hundred and Fifty Thousand Naira; **N2,500,000.00** (Two Million, Five Hundred Thousand Naira; **N80,000** (Eighty Thousand Naira) only from one Sheu Abdullahi, Ladan Mohammed and Usman Haruna respectively contrary to S.16 of the Corrupt Practices and other Related Offences Act.

The Defendant pleaded not guilty to the 3-counts and I ordered that he be remanded in Police custody pending when his bail application would be considered.

Now, the prosecution was served with the extant application on 17/3/20. The Prosecutor by name Sunday David did not file any counter - affidavit. The implication of no counter-affidavit to challenge a supporting affidavits is obvious and settled in our criminal jurisprudence. It means that it is free to rely on the deposition of the unchallenged affidavit. This is what I am going to do now. But before I do that, I must point it out that the offences alleged against the Defendant are 3. One that is Criminal breach of trust is non-bailable. Because it attracts upon conviction a term of imprisonment that is more than 3 years. But bail can be extended to the Defendant/Applicant upon a favourable discretion of the Court. The discretion must be exercised judicially judiciously and upon settled considerations. Such consideration is whether the applicant would not jump bail, would not tamper with Police investigation and whether he/she would not commit further or other offences. See **ASARI DOKUBO VS. FRN (2207) ALL FWLR (PT. 375); ANI VS STATE (2002) 1 NWLR (PT. 747).**

It is for the above principle of law that I perused the content of the 21-paragraphs supporting affidavits.

This applicant is married with one kid and aged mother. He is the bread winner of the family and also a Civil Servant with the Federal Ministry of Youth and Sport. Infact, is a Director in the Ministry.

Furthermore, he has been on Police administrative bail before arraignment in Court and no report of any attempt to tamper with Police investigation. For all the above facts see paragraphs 11, 12, 13, 14, 15, 16, and 17 of the supporting affidavit.

It is therefore for the above reasons that I am inclined to exercise my discretion favourably in favour of this applicant. See ANAKWU VS. COP (1996) 3 NWLR (PT. 320) 331.

In effect therefore, I found merit in this application for bail pending trial and it is hereby granted.

The applicant is consequently admitted to bail in the sum of **N10,000,000.00** (Ten Million Naira) only and two sureties each in the same amount. The sureties must be Civil Servants not below the level 14 officers working and residing within the Federal Capital Territory, Abuja.

.....
S. B. Belgore
(Judge) 10-12-20.

