

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T.**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT KUBWA, ABUJA**  
**ON TUESDAY, THE 6<sup>TH</sup> DAY OF NOVEMBER, 2020**  
**BEFORE HIS LORDSHIP: HON. JUSTICE K. N.**  
**OGBONNAYA**  
**JUDGE**

**SUIT NO.: FCT/HC/CR/852/20**

**BETWEEN:**

FEDERAL REPUBLIC OF NIGERIA ----- } PROSECUTION

**AND**

WALEOLA WALIU ----- } DEFENDANT

**RULING**

On the 23<sup>rd</sup> of October, 2020 the Defendant Waleola Waliu was arraigned before this Court on a one (1) charge count.

He was accused of having canal knowledge and intentionally penetrating with his penis in the vagina of one Miss. Musa Abike Amidat, an eleven (11) years old and thereby committed an offence of Rape punishable under S. 1 (2) of Violence Against Persons (Prohibition) Act 2015.

He pleaded not guilty to the offence. His Counsel filed a Motion M/11051/20 for Bail on the 22th day of October, 2020 the same day he was arraigned.

In the Motion which was supported by an Affidavit of 16 paragraphs the Counsel stated that the Defendant will not jump bail, he has a reliable Surety, he will not interfere with the course of Investigation of the case and Bail if granted will enable him prepare his Defence.

Of interest is the averment in paragraph 14 which is that the Nominal Complainant, the 11 years old Musa Abike Amidat will not be prejudiced if bail is granted to him.

The Prosecution Counsel did not oppose the application which was served on it on the same day the Defendant was arraigned in the Court, that is the 22<sup>nd</sup> day of October, 2020.

In the Written Address the Defendant Counsel had submitted that Bail is at the Court's discretion. That S. 36 (5) CFRN 1999 presumed the Defendant innocent until proven guilty. He also referred to S. 35 (4) that anyone charged with criminal offence should be brought to Court with a reasonable time. He referred to the case of:

**Adeniyi V. FRN  
(2012) 1 NWLR (PT. 1281) 284 @ 287**

That the Defendant has been on Administrative Bail by NAPTIP and that he has never jumped bail as he reported to the Agency on each occasion he was requested to come to their office. He urged Court to grant the application in the interest of justice and on liberal and lenient terms. He relied on the case of:

**Onyirioha V. IGP**

**(2009) 3 NWLR (PT. 1128) 342 @ 370 Para D – E.**

**COURT:**

S. 158 – 164 ACJA provides the A – Z of Bail and what a Court considers before it can grant or refuse Bail. Of most importance is the fact that Bail is free and the right of anyone accused of committing a criminal offence. Also of importance is that granting of Bail is at the discretion of the Court which must be exercised judicially and judiciously.

This entails the fact that even when the application is challenged or not challenged the Court has a discretionary power to grant or refuse bail. It is important to note that once an accused person it is clear that there is a tendency for an accused person to jump bail, influence the case or interfere with investigation, the Court will not grant same. Also the nature of the offence and the surrounding circumstance of the offence may come to the fore and affect the stance of the Court. That is why the Court has the discretion to grant or not to grant even when

all the elements in S. 162 of the ACJA 2015 is present. On all the above see the cases of:

**State V. Sule**

**Mya Bamaiyi V. State**

**FRN V. Isah**

**FRN V. Olisa Metu**

In this case the Defendant is accused as allegedly stated of a one count charge of Rape – having unlawful penetration of the private part of an eleven (11) years old child placed in the care and custody of his wife and himself – as a baby minder. The victim is a niece of the wife of the Defendant. Administrative Bail was granted to the Defendant but he did not state whether the Administrative Bail was granted on the day he was arrested on 7<sup>th</sup> February, 2020 or subsequently on a different date. He has stated that he will not interfere with the case, investigation and his Bail will not prejudice the victim.

The victim has since been in the custody of the NAPTIP and no longer in the custody of the Defendant and his wife who are still living together ever since the time of arrest, detention and grant of Administrative Bail to the Defendant. The Defendant was presented to Court by the Agency obviously from his home. The Court has watched his demeanour in the Court while the matter was going on. That had also noted the fact that Prosecution Counsel did not challenge the application for Bail.

The Court had as well gone through the Statements of the victim and the Defendant. The question is, should this Court grant Defendant Bail to enable him prepare adequately for his defence in this case? Again is the Defendant likely to jump Bail and influence the investigation of the case and or interfere with the case? Will granting Bail be in the interest of justice of the case at this stage having in mind that the fact that the fact that Nominal Complainant is a minor.

It is the considered view of this Court that though the Defendant had faithfully reported to the Agency ever since after the grant of Administrative Bail till he was arraigned, it will be in the judicial and judicious grant Bail to him. The Court hereby grants application for accelerated hearing. Bail is therefore Not granted to wit:

- (1) The Defendant must attend Court unfailing every day that this matter comes up before this Court – throughout the trial. Any day he fails to do so, the Court will vacate the Bail automatically.
- (2) Two (2) Surety who must be Civil Servants in Grade Level (GL) 14 and above in a Federal Ministry who must reside in Abuja and who must be from the same State as the Defendant.

Bail is granted on ground of:

Surety shall show evidence of – landed property within Federal Capital Territory and means of at least

Three Hundred Thousand Naira (N300, 000.00) –  
cash in a reputable Bank.

The Defendant shall deposit his travel document with  
the Sheriff of this Court Chief Registrar of this Court.

The Defendant's wife should ensure that she is in  
Court everyday that this matter comes up unfailingly.

**This is the Ruling of this Court.**

**Delivered today the \_\_ day of \_\_\_\_\_ 2020 by me.**

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**K.N. OGBONNAYA  
HON. JUDGE**