

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT JABI
THIS 16TH DAY OF MARCH,2021
BEFORE HIS LORDSHIP: THE HON. JUSTICE A.A FASHOLA
CHARGE NO: CR/030/2021
MOTION NO:

BETWEEN:

INSPECTOR GENERAL OF POLICE..... APPLICANT

AND

OWOLABI AKEEMRESPONDENT

RULING

The ruling before this Honorable court is predicated on motion on notice dated the 16th day of February 2021 praying for the following orders.

1. The motion is seeking for an order admitting the defendant/applicant to bail pending the determination of his trial before this Honorable court.
2. And for such further or other orders as this honorable court may deem fit to make in the circumstances.

Attached to the motion on notice dated is eleven paragraph affidavit dated 4th march 2021. Deposited to by Owolabi Akeem, the defendant/Applicant further Attached is a written address not dated.

On the other hand, the prosecuting counsel filed a notice of preliminary objection dated 9th/03/2021

The said preliminary objection is to the effect that this honorable court lack jurisdiction to hear the bail Application dated 4th March 2021 as presently constituted. Learned counsel gave particulars as follows:-

1. The charge preferred against the defendant/Respondent with charge NO: CR/030/2021 was filed preferred by inspector-General of police. while the bail application filed by the defendant/Respondent is title Commission of Police FCT Vs Owolabi Akeem
2. The Commissioner of Police F C T is not a party to the criminal Case with Charge NO: CR/030/2021 pending before this Honorable court.
3. The Motion on Notice for bail filed by the defendant and served on the complainant which was filed on 4th march 2021 copy served on the complainant/Applicant does not have motion number.

In support of the notice of preliminary objection is fifteen paragraph affidavit dated the 9th /03/2021. Further Attached is a written address dated the 9th /03/2021.

The prosecution also filed 27th paragraph Affidavit deposed to by Dr.Lawrence Anebi, the nominal complainant in this charge.

Attached with the court affidavit is a written address 9th /march /2021. Learned counsel to the prosecution urges this Honorable court to dismiss the motion on notice filed on the 4th of March, 2021 and remand the defendant/applicant in Nigerian Correctional service.

Learned counsel to the defendant/applicant did not file any reply on point of law to the prosecution's objections and Court affidavit having read very carefully all the processes filed by the defendant and the prosecution counsel, I shall make reference to same as I deem fit during the course of this ruling .

In that vain, it is pertinent to note that the first issue for determination is the issue for jurisdiction as raise by the learned prosecutor. It is the contention of the learned prosecution in the main that the commissioner of police as mention by the applicant's counsel is not a party in this case and that the motion for bail has no motion number as such, This Honorable Court jurisdiction to hear the motion.

It is trite law that where the issue of jurisdiction is raised, the court shall determine that first.

In our criminal jurisprudence refers to the place or venue where a person alleged to have committed an offence ought to be tried. The question of criminal jurisdiction is three- tiered, in the sense that there are three levels of jurisdiction.

1. Extra territorial jurisdiction

2. Territorial jurisdiction and

3. Local jurisdiction.

See Criminal Procedure in Nigeria law and practice page 159 by Oluwatoyin Doherty. That Commissioner of police F.C.T was written instead of the Inspector General of police to my mind is a misnomer which did not go to the substance of the motion I so Hold. It has been delivered in long line of cases by superior courts of the land that court should delivered substantial justice rather than technical justice.

In view of the above reasoning, I find that the prosecution's preliminary objection dated the 9th day of March 2021 is lacking merit, it is hereby dismissed.

On the main application before this honorable court which is the bail application.

On the issue of whether or not to grant or refuse bail pending trial of an accused person, the trial court shall exercise its discretion judicially and judiciously.

The Honorable shall consider the following conditions:

1. The nature of the charge.
2. The strength or evidence which supports the charge.
3. The gravity of punishment in the event of conviction.
4. Previous criminal record of the accused if any.
5. Probability of the accused surrounding himself for trial.
6. The likelihood of the accused interfering with witness or suppressing any evidence that may incriminate him

7. The likelihood of further charge being brought against the accused.
8. The probability of guilt of the accused person
9. Detention for the protection of the accused person.
10. The necessity to produce medical or social report pending final disposal of the case, See the case of **BAMAIYI Vs STATE (2001) 8 NWLR (PT. 715)**

The Law imposes a duty on the prosecution to contradict or controvert the claim of the applicant for bail why he should not be granted bail. Where the prosecution fails to produce strong evidence to contradict the applicant's claim. The court would have no reason to refuse bail. It is wrong for courts to refuse the applicant bail on an unsubstantiated belief. See the case of **AHMED V C.O.P (2012) 9 NWLR (PT. 1304) P 104.**

In this case, the prosecution failed to prove by way of strong evidence why the defendant should not be admitted to bail. It is trite law that the defendant is presumed innocent until proven guilty. In view of the above stated legal authorities and reasons, the defendant is admitted to bail in the sum of N5,000,000.00 (Five Million Naira only) with two responsible sureties in the like sum.

Surety shall work with any Federal Agency (with) should not be below level 13.

Address to be verified- both office and residential by the registry of the court.

Case is adjourned to the 20th of April for hearing.

Signed
Hon. Presiding Judge
16/03/2021