

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 4, MAITAMA ON THE
22ND DAY OF NOVEMBER, 2021

BEFORE HIS LORDSHIP: HON. JUSTICE U. P. KEKEMEKE

CHARGE NO. FCT/HC/CR/1091/2020

MOTION NO. FCT/HC/M/7766/2021

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA PROSECUTION

AND

ADAMU MUSTAPHA DANZEDEFENDANT

RULING

The Defendant/Applicant's application dated 10/11/2021 is for an Order admitting the Defendant/Applicant to bail pending the hearing and determination of the criminal charge against him.

Learned Senior Counsel rely on the 8 grounds listed on the face of the Motion paper. He further relied on the 13 paragraph Affidavit filed in support, deposed to by the Defendant.

He deposes essentially that there are no reasonable grounds showing that he committed the offence. That he will not jump bail. That he has no criminal record. That he will not evade his trial. That he will not temper or interfere with or influence or intimidate witnesses.

That while in administrative bail, he diligently kept to the terms and conditions of the bail. That he will not conceal or destroy evidence.

I have also read the Counter Affidavit of the Prosecution, sworn to by Ibrahim Yahaya. He deposes that Applicant evaded trial twice. That Applicant failed to honour previous hearing notices.

That Applicant has been on administrative bail but abused the opportunity by refusing to honour the invitation extended to him. That Applicant is a very influential trader. That threat to witnesses is real and genuine.

By Section 162 of the Administration of the Criminal Justice Act, a Defendant charged with an offence punishable with imprisonment for a term exceeding three years shall on application to the Court be released on bail except in any of the following circumstances:

- (1) That Defendant may where released commit another offence.
- (2) Attempt to evade his trial.
- (3) Attempt to influence, interfere with, intimidate witnesses and to interfere in investigation.

- (3) Attempt to conceal or destroy evidence.
- (5) Prejudice investigation of the offence.

The fear of the Prosecution is that the Defendant is a very influential person. That threat to witnesses is real and genuine. That Applicant will evade his trial.

In support of the assertion, learned prosecuting Counsel rely on Exhibit LCPC3. I have read same. It is a letter written by the Nominal Complainant withdrawing the complaint.

The Prosecution has not been able to prove that the Applicant will interfere with witnesses. There is no evidence that the Defendant who was on administrative bail was arrested and brought before this Court. He apparently came from home.

Under our law, bail is a right of a Defendant. A Defendant is not usually denied bail except where the offence is a capital offence and where special circumstances genuinely exist.

The decision to grant or not to grant bail is at the discretion of the Court. However, I shall exercise that discretion judicially and judiciously having referred to the right of the Defendant to his liberty until proven guilty to the crime and the need for the society to be protected from grievous crimes.

The Defendant is the current Chairman of the Gwagwalada Area Council. He cannot evade his trial. He has nowhere to hide. I shall give him the benefit of doubt.

The application succeeds.

Bail is therefore granted to the Defendant in the sum of ₦20,000,000 (Twenty Million Naira) and one surety in the like sum.

The surety shall be the owner of a landed property with Statutory Right of Occupancy within jurisdiction **or** a Federal Civil Servant of the status of Assistant Director and above, while case is adjourned to 1/03/2022 for Hearing.

HON. JUSTICE U. P. KEKEMEKE
(HON. JUDGE)
22/11/2021

Defendant present.

Michael Adesola, Esq. for the Prosecution.

Abdul Mohammed, SAN with Umoru Yunusa, Esq., Rabi'u Saidu, Esq.,

D. A. Akatugba, Esq., C. N. Onyia, Esq. and A. K. Lawal,

Esq. for the Defendant.

COURT: Ruling delivered.

(Signed)

Hon. Judge

22/11/2021