

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY,  
IN THE ABUJA JUDICIAL DIVISION,  
HOLDEN AT COURT NO. 8 APO, ABUJA.  
BEFORE HIS LORDSHIP: HON. JUSTICE O. A. MUSA.**

**CHARGE NO: FCT/HC/BW/CR/43/2020**

**BETWEEN:**

COMMISSIONER OF POLICE ..... COMPLAINANT

**AND**

OPUTA VITUS ..... DEFENDANT

**RULING**

**DELIVERED ON THE 21<sup>ST</sup> OCTOBER, 2021**

This bail application is brought pursuant to section 34(4) of 1999 constitution of Federal Republic of Nigeria (As amended) Section 161 (2) (b) (c) of the ACJA 2015 and under the inherent jurisdiction of this court seeking for an order admitting the Applicant to bail pending the determination of the trial.

2. Omnibus prayer Dated 28<sup>th</sup> day of September, 2021.

It has an 18 paragraphs sworn affidavit by one Mr. Philip Oputa thus:

1. That I am a blood brother of the Defendant/Applicant and Defendant/Applicant was living with me before his arrest and as a result of which I am conversant with the facts of the case.
2. That I have the consent of the Defendant/Applicant to depose to this affidavit.

3. That the Defendant/Applicant was arrested on the 25<sup>th</sup> day of February, 2020.
4. That the Defendant/Applicant was arrested at Kabusa Area of the Federal Capital Territory within the jurisdiction of this Honourable Court over a disagreement between the Defendant/Applicant and some staff of AEDC, who later alleged that one of the AEDC staff was injured and died in the process.
5. That later that days, men of the now defunct SARS arrested the Defendant/Applicant and kept in him in their custody for months before finally sending him to the FCT Garki Police Command for several weeks.
6. That it took the Defendant/Applicant applying for the enforcement of his fundamental right in court before the Police reluctantly brought his charge against the Defendant/Applicant.
7. That the prosecution has since abandoned their case.
8. That the Defendant/Applicant is standing trial for the offences of causing gravies body hurt and Homicide.
9. That the Defendant/Applicant has spent almost two years in the prison already since his arrest.
10. That the Defendant/Applicant has only been arraigned for his plea July this year 2021 and only one witness taken by the prosecution since then and nothing more.
11. That the Defendant/Applicant's wife has suffered untold hardship since the arrest and detention of the Applicant.

12. That the Applicant has a young child who had equally suffered a lot of hardship due to the absence of the Defendant / Applicant as the wife alone is not able to care for the child.

13. That due to the pain of the Defendant/Applicant's arrest and long detention, the mother and the father have long died and the child and his wife have been rendered helpless.

14. That I was inform by the Defendant/Applicant in August 2020 at the minimum prison Keffi and I verily believe him that he will not;

- a. Jump bail if admitted to bail pending his trial.
- b. Interfere with police while on bail
- c. Commit another offence while on bail.

15. That I am ready to stand as surety for his bail on such terms imposed by the court.

16. That the Defendant/Applicant is ready to stand his trial and accept the outcome of the trial.

17. That grant of this application will not in any way prejudice the complainant.

18. That I depose to this affidavit in good faith conscientiously believing same to be true in accordance with the Oaths Act, 2004.

It is equally supported by a written address of counsel urging the court to admit the Defendant to bail pending trial. Relying on section 161 (1) (2) of ACJA 2015 as clearly stated on the face of the Motion paper.

I have gone through the submission of learned counsel; and all the Quoted cases which I have adopted as mine.

More importantly too, the prosecution did not file a counter affidavit challenging same, urging the court to observed Section 161 (1) (2) of the ACJA 2015 and he left the decision at the discretion of the court.

Finally, and in view of the nature of the application, even though the alleged offence is a Capital one, it can not be concluded soon, it may last more than two months the court would concede to the Applicants prayers. See *Obekpa V C.O.P* (1981) 2 NCR 420 at 422 paragraphs 3 Idoko J. Said;

It was held that the right to be released before trial is much more basic if the trial is going to last more than two months.

In view of the above cited case, I hereby admit the Applicant Defendant/Accused to bail based on the reasons stated in his application, more especially that no any challenge brought forward by the prosecution; and hence he has undertaking to always appear in court for his trials till end.

As such, he is admitted to bail in the following terms thus:-

1. That the bail sum is N2 Million (Two Million Naira Only) with a surety in like sum.
2. The surety shall be a Civil Servant of Grade Level from GL7 – Above

3. The surety shall file in court a photocopy of his appointment letter and I.D Card.
4. He Shall Make same that he attend court to face his trial till conclusion.
5. Failure to attend court without cogent reason the court may terminate the bail; and his surety would show cause why he will not forfeit the bail bound.
6. The surety shall snap a picture in front view of his residence in Abuja.
7. He shall place a passport photograph on the bail bound.

**APPEARANCE:**

The prosecution is absent in court

Saidu Akwu, Esq. for the Defendant

Sign

Hon. Judge

21/10/2021