

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT JABI**

**THIS FRIDAY THE 19<sup>TH</sup> DAY OF NOVEMBER, 2021.**

**BEFORE: HON. JUSTICE ABUBAKAR IDRIS KUTIGI -- JUDGE**

**CHARGE NO: CR/211/2021**

**MOTION NO: M/7910/2021**

**MOTION NO: M/8097/2021**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA .....COMPLAINANT/RESPONDENT**

**AND**

- 1. EMMANUEL OGBU ..... DEFENDANT/APPLICANT**
- 2. NEXT TECH. GLOBAL SERVICES LTD ..... DEFENDANT**
- 3. MR. ADEWALE YUSUF ..... DEFENDANT/APPLICANT**
- 4. DESRICH LOGISTICS LTD. .... DEFENDANT**

**RULING**

The Defendants were arraigned under a charge dated 2<sup>nd</sup> July, 2021 and filed same date in the Court's Registry.

The 1<sup>st</sup> Defendant is charged under all the 11 (eleven) Counts of the charge while the 3<sup>rd</sup> Defendant is only charged under 3 (three) Counts of the charge. The charge border generally on violation of the provisions of the Advance Fee Fraud and other Fraud Related Offences Act, the Penal Code Law and the Dishonoured Cheque (offences) Act and punishable under the provisions of these laws.

Both the 1<sup>st</sup> and 3<sup>rd</sup> Defendants filed applications for bail. The application of 1<sup>st</sup> Defendant is supported by a 10 paragraphs affidavit with four (4) annexures marked as **Exhibits A-D** and a written address in support.

The application of 3<sup>rd</sup> Defendant is supported by a 10 paragraphs affidavit and a written address. The written address of parties all dealt with the settled principles governing grant of bail applications.

Learned counsel to the Applicants relied on the paragraphs of the supporting affidavits and adopted the submissions in their written addresses in urging the court to grant the application.

The complainant filed a joint counter-affidavit of seven (7) paragraphs with exhibits identified as **Exhibits EFCC1 – 2J**. A written address was filed which equally addressed the settled principles governing grant of bail.

I have carefully considered the processes filed on both sides of the aisle together with the oral submissions made by counsel. It is now common ground that the bail regime under the Administration of Justice Act (ACJA) is favourably disposed to the grant of bail especially in respect of offences that are bailable. See **Section 162 of ACJA**.

It is not in doubt that the nature of the offences for which the defendants are charged in this case is such that entitles them to bail by virtue of the provision of **Section 162 of the Administration of Criminal Justice Act (ACJA) 2015** except circumstances are shown or established why they should not take the benefit of being admitted to bail. The complainant who is opposing bail has the bounden duty to furnish court with materials denoting precisely why bail should not be granted in the circumstances. In this case, I have carefully considered the counter-affidavit filed by the complainant. With respect to the 3<sup>rd</sup> Defendant, no facts was deposed to providing valid basis to situate refusal of bail on any of the streamlined legal conditions that would have allowed the court to refuse to grant him bail.

In any event, learned counsel conceded that the 3<sup>rd</sup> Defendant has been on Administrative bail and has not at any time violated the terms. Now with respect to the 1<sup>st</sup> Defendant, the counter-affidavit situates only that he has a pending criminal case but the records of proceedings attached ended on 7<sup>th</sup> March, 2019 which is clearly an in-complete Record which does not give any indication as to what transpired in the case and cannot be used as a basis to conclude conclusively that he was not available to stand that particular trial.

In any event, the prosecution counsel stated that despite the said proceeding, 1<sup>st</sup> Defendant was equally granted Administrative bail and he equally kept to the terms.

As alluded to by counsel to the Defendants, by the relevant provisions of the law relied on, the law presumes the Defendants innocent until the contrary is proved by the prosecution at plenary hearing. The salutary essence of bail is simply to ensure the presence of the Defendants at the trial of the charge preferred against them.

In this case, there is nothing suggestive of the fact that the 1<sup>st</sup> and 3<sup>rd</sup> defendants will if granted bail be unavailable to face their trial. Indeed as already alluded to, the Defendants were granted administrative bail prior to their arraignment and they did not breach the terms which is indicative of the fact if they are granted bail by court, they will be available to stand their trial. There is similarly no question that the Defendants will tamper with investigations in any manner or may interfere with witnesses or suppress the evidence which may be adduced at trial.

The bottom line really is that there is no feature or material that will prevent the court from properly exercising its discretion to grant bail to the Defendants.

I accordingly grant bail to the 1<sup>st</sup> and 3<sup>rd</sup> Defendants on the following terms:

**(A) The 1<sup>st</sup> Defendant:**

- 1. The 1<sup>st</sup> Defendant is hereby admitted to bail in the sum of ₦20, 000, 000 (Twenty Million Naira Only) with one surety in the like sum.**
- 2. The surety shall be a civil/public servant not below Grade level 12 within jurisdiction.**
- 3. The surety shall provide verifiable means of identification as a civil servant; place of abode and also depose to an affidavit of means.**

**(B) The 3<sup>rd</sup> Defendant:**

- 1. The 3<sup>rd</sup> Defendant is hereby admitted to bail in the sum of ₦10, 000, 000 (Ten Million Naira Only) with one surety in the like sum.**

2. The surety shall be a civil/public servant not below Grade level 12 within jurisdiction.
3. The surety shall provide verifiable means of identification as a civil servant; place of abode and also depose to an affidavit of means.

The Matter is adjourned to 16<sup>th</sup> February, 2022 for hearing.

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Hon. Justice A. I. Kutigi

**Appearances:**

1. O. Adeola, Esq., for the Complainant/Respondent.
2. Anthony Agbonlahor, Esq., for the 1<sup>st</sup> Defendant/Applicant.
3. Oluwamayowa Ajayi, Esq., with Richard Rusuf, Esq., for the 3<sup>rd</sup> Defendant/Applicant.