

**IN THE HIGH COURT OF JUSTICE OF THE FEDERAL CAPITAL
TERRITORY**

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT MAITAMA, ABUJA

BEFORE HIS LORDSHIP: HON. JUSTICE H. MU'AZU

ON WEDNESDAY 1st DAY OF DECEMBER, 2021

SUIT NO: FCT/HC/CR/205/2021

MOTION NO: FCT/HC/M/6980/2021

BETWEEN:

FEDERAL REUBLIC OF NIGERIA COMPLAINANT/RESPONDENT.

AND

UDEBU SUNDAY WILLIAMS DEFENDANT/APPLICANT.

RULING

By a Motion on Notice dated 18/10/2021 the Defendant/Applicant prays for the following.

- (1) An Order of this Honourable Court granting bail to the Defendant pending the hearing and final determination of this matter.
- (2) And such further order(s) that this Court may deem fit to grant in the circumstance.

The Applicant filed a 5 paragraph affidavit in support of the application. Also in compliance with the Rules of this Court Applicant filed a Written Address.

Upon service of the application the Complainant/Respondent filed a 9 paragraph counter affidavit in opposition to the application. They also filed a Written Address wherein a sole issue was raised for the determination of the Court, to wit:

Whether the facts and evidence before this Court are sufficient to release the Defendant/Applicant on bail.

At the hearing of the application on the 22/11/2021 both parties placed reliance on the averments in their respective affidavits and also adopt their Written Address.

Facts distilled for the affidavit in support of the application are that the Defendant was invited to the office of the Independent Corrupt Practices and other Related Offences Commission (ICPC) sometimes in 2018. He was granted Administrative Bail on the 10/8/2018 and since then he has not purposed bail or defaulted on any terms of his bail condition. That he is charged for bailable offences. That the Applicant is willing to stand trial, He has no record of previous conviction. That failure to attend the Court at the last date was not deliberate.

In the address, Applicant's Learned Counsel contended that the Applicant enjoys presumption of innocence under Section 36(5) of the 1999 CFRN (as amended) and is entitled to by the provision of Section 162 of the Administration of Criminal Justice Act.

The Learned Counsel prayed the Court to exercise its discretion in favour of the Applicant and placed reliance on the authority in **ALI V. STATE (2012) 22 WRN 92 at 99**

In response, it is the affidavit evidence of the Complainant/Respondent. That the Defendant/Applicant was granted bail by the ICPC on the 15th of August, 2018 on very liberal terms including one female surety, an Assistant Director with the University of Abuja. That earlier he complained with conditions for bail but things change when he became

aware that he was going to be charged to Court. That Applicant was served on the 20th of September 2021 to appear on the 14/10/2021 for arraignment but failed to appear in Court.

That the Complainant is not at ease with the grant of bail to the Defendant/Applicant for this reason.

In the address, Learned Complainant's Counsel submitted that the main function of bail is to ensure the presence of the Defendant at the trial.

The Complainant further submitted that the reason given by the Applicant for his absence on the 14/10/2021 has remained unsubstantiated that claim of ill-health must be proved and relied on the decision in **ADAMS V. ATTORNEY GENERAL of the FEDERATION (2006) 11 NWLR (Pt.991) at 341.**

In the Applicant's further affidavit it was averred that reason why it was difficult to serve the Defendant the Summons was because he relocated to Lagos about a year ago.

I have carefully read and considered the Motion Paper and the supporting affidavit and the further and better affidavit of the Applicant on the one hand and the Counter Affidavit of the Complainant on the other hand. I have also considered arguments canvassed by Counsel on both sides.

It is trite that grant of bail is at the discretion of the Court and where the maximum punishment on conviction of Defendant is not more than 3 years, bail is granted as of course. It is also true and pertinent that the Defendant is presumed innocent by virtue of the provision of Section 36 (5) of the 1999 Constitution of the Federal Republic of Nigeria.

That being said, the likelihood of the Defendant becoming available for trial is also important consideration in the grant of bail. In this case the prosecution has entertain fear that the alledged action of the Defendant

evading service of summons and not making himself available on the 14/10//2021 for arraignments is an indication the likelihood of the Defendant frustrating the due process of this trial. On the other hand the Defendant mentioned that he has never jumped bail or violated any terms of his bail condition until he took ill around the time of his arraignment.

I must say that from 2018 to September 2021 there was no problem with the defendant respecting the administrative bail granted him by the ICPC. That to my mind is good enough to give him the benefit of the doubt regarding his absence on the 14/10/2021. I shall exercise my discretion in favour of the Defendant while ensuring that he attends to his trial. In all, I find that the application succeeds and it is hereby granted on the following terms.

Applicant is admitted to bail in the sum of ₦2,000,000.00 and two sureties each in the likes sum.

One surety must be holder of title to property within AMAC.

SIGNED
HON. JUDGE
1/12/2021.

LEGAL REPRESENTATION

1. Z. C. NASS Esq, for the Proscution/Respondent.
2. A. A. Eju MejowoEsq, for the Defendant/Applicant.