

**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  
CHARGE NO. FCT/HC/CR/244/2021  
MOTION NO:FCT/HC/M/8820/2021  
ON THE 16<sup>TH</sup> December, 2021**

**BETWEEN:**

**INSPECTOR GENERAL OF POLICE.....COMPLAINANT/RESPONDENT.**

**AND**

- 1. ADEBANJO ADEBIYI DANIEL - DEFNDANT/APPLICANT.**
- 2. FACILITY TRACK LIMITED**

**RULING**

By a motion on notice brought pursuant to section 158(1) (2) & (3), 165,167 and 168 (b) of the ACJA 2015 section 35,36(5) and 36(6) of the 1999 CFRN (as amended) the Defendant / Applicant is seeking for the following reliefs.

- (a) An order of this court admitting the Defendant / Applicant to bail pending the hearing and determination of the charges preferred against him.
- (b) An order of this court admitting the Defendant / Applicant to bail on other liberal terms, pending the hearing and determination of the charges preferred against him.
- (c) Omnibus prayer.

The Defendant / Applicant application was predicated on the following grounds.

- (a) The Defendant / Applicant has never been convicted of any offense in Nigeria or any other jurisdiction.
- (b) By section 36(5) of the constitution of the Federal Republic of Nigeria 1999 (as amended) the Defendant / Applicant is presumed innocent until proven guilty.
- (c) Under the ACJA 2015 the offences the defendant is charged with are bailable.
- (d) The reputation and past credible record of the Defendant / Applicant who has been on administrative bail will not jump bail if granted same.
- (e) That since investigation has been completed, the likelihood that Defendant / Applicant will interfere with the investigation is zero.
- (f) The Applicant is willing to and will always and punctually attend his trial.
- (g) The Defendant / Applicant if required to is ready to provide responsible surety as may be required by this honourable court as a condition for the grant of this application.

In support of the application, the Defendant / Applicant filed a 15 paragraph affidavit deposed to by one Mrs. Rose Sanni. A written address of counsel was also filed wherein counsel submitted a sole issue for the determination of the court, to wit;

Whether in the light of the provision of the constitution as regards the presumption of innocence under section 36(5) of the 1999 constitution and section 162 of the ACJA2015, Defendant / Applicant is not entitled to bail.

Learned counsel argued the issues succinctly in urging the court to grant the application.

In response, the Complainant / Respondent filed a 26 paragraph counter affidavit, deposed to by inspector Joshua Yohanna with 3 annexure marked as Exhibits A-C.

Complainant / Respondent also filed a written address wherein counsel for the Complainant / Respondent distilled an issue for the determination of the court, to wit.

***“Whether the court in exercise of its discretion will not be minded on the probability that the Defendant / Applicant may not surrender himself for trial?”***

The facts as distilled from the affidavit of the Defendant / Applicant are that based on a petition to the office of the I.G.P. by one Manzo Buba, the applicant was arrested on the 4<sup>th</sup> day of September, 2020 and has been complying with the bail conditions. That the Defendant / Applicant traveled to Lagos sometimes in September, 2021 to visit his mother and took ill on his return to Abuja and was admitted at Federal Medical Center Jabi, Abuja. A copy of the medical report was attached as Exhibit A.

That the Defendant / Applicant was re-arrested when he went back to visit his sick mother.

Facts in the counter affidavit are that the Defendant / Applicant was petitioned to the I.G.P. and investigation commenced. That several attempts were made to arrest the Defendant / Applicant but all proved abortive as he switched off his phones and refused to come to Abuja. That they had to use tracking device which led to the arrest of the Defendant / Applicant in remote village in SHAGAMU OGUN STATE. That later the Applicant was granted administrative bail on the 15/10/2020 to one PAUL IGIE.

That the Defendant / Applicant jumped bail again leading to the prosecution of the surety. A copy of the FIR was annexed as Exhibit C.

That on the 2<sup>nd</sup> of December, 2021 with aid of tracking devices and soft targets the Applicant was rearrested in a different remote village in Ogun State where he took refuge. It was further averred that it cost the investigation officers more than Two Million Naira to re-arrest the Applicant.

In the address of counsel for the Defendant / Applicant he contended that, grant of bail is at the discretion of the court. Counsel relied on provisions of section 161(1), 162 & 165(1) of ACJA in urging the court to exercise its discretion in favor of the Applicant.

In the address of counsel for the Complainant / Respondent it was argued that though bail is at the discretion of the court such discretion must be exercised judiciously and judicially considering the circumstances of each Application.

Learned counsel submitted that there are material evidences before the court that the Defendant is a flight risk as he has evaded investigation and prosecution in the past.

I have carefully considered the Application of the Defendant / Applicant and the supporting affidavit on the one hand and the counter affidavit of the Complainant / Respondent on the other hand. I have also given consideration to the arguments canvassed by counsel on both parties. It is settled that bail is at the discretion of the court. Such discretion is to be exercised judicially and judiciously as guided by section 162 of ACJA and many authorities of the Apex court. It is in evidence that the Defendant / Applicant had to be tracked on two occasions to make him available for investigation and prosecution.

And although the Defendant / Applicant was said to have taken ill upon return to Abuja after his September, 2021 trip to Lagos the medical report annexed was dated 9<sup>th</sup> December,2020. I don't believe the Defendant / Applicant and I believe the Complainant / Respondent that the Applicant has attempted to evade trial.

Accordingly, I shall exercise my discretion to deny this Application. Same is hereby refused and accordingly dismissed.

Court: - order for accelerated hearing is hereby made case.

Case is adjourned to 20/01/2022 for commencement of trial.

SIGNED.  
HON. JUDGE.  
16/12/2021.

#### LEGAL REPRESENTATIVES

1. Henry Ugwu Esq, with E. O. Linus Esq, for the Defendant/Applicant.
2. E. U. Uzowuru, Esq, Holden the brief of P. A. Amadi Esq, for the complainant/Respondent.