

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT JABI – ABUJA

THIS 16TH DAY OF MARCH 2022

BEFORE HIS LORDSHIP HON: JUSTICE A. A. FASHOLA

SUIT NO :FCT/HC/CR/007/2022

MOTION NO. M/1186/2022

BETWEEN

FEDERAL REPUBLIC OF NIGERIA - - - COMPLAINANT

AND

UDOHUMOHABIAT FRIEDO FRANCIS - - DEFENDANT

RULING

The ruling before this honourable court pertains to a motion on notice dated and filed on the 4th February 2022 by the counsel to the defendant/applicant herein, the motion was brought pursuant to section 35 (1) 36 (5) and 41 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and section 158, 161 and 162 of the administration of Criminal Justice Act 2018 and Section 19 of the Advance Fee Fraud and other related offences Act 2006 and under the inherent jurisdiction of this honourable court.

- 1. The motion seeks for an order admitting the defendant applicant to bail pending the hearing and determination of the Criminal Charge.*

2. *And for such further order(s) as this honourable court may deem fit to make in the circumstances.*

In support of the motion on notice is a 14 paragraphs affidavit deposed to by one Juliet Christian a litigation clerk in the law firm of counsel to the defendant/applicant.

The affidavit is dated 4th February, 2022 and filed on the same date. Attached therewith is a written address. The learned counsel to the defendant/applicant formulated a lone issue for determination wit:

"Whether the defendant/applicant ought to be granted bail by this Honourable court pending the determination of the charge against him."

The learned counsel to the defendant/applicant in arguing the bail application herein contended in the main that bail pending trial is at the discretion of the court, however a person is said to be innocent until proven guilty. He cited the case of **BAMAIYI VS STATE (2001) 4 SCNJ 103**. He argued that by Section 35(4) of the 1999 constitution guarantees every citizen of Nigeria is entitled to right to liberty while section 36 (5) presumes every person accused of a criminal offence innocent until his guilt is proved. He relied on the case of **ONYIRIGHA VS IGP (2009)3**

NWLR (PV 1128)342 page 364 in urging this court to admit the defendant/applicant to bail.

Learned prosecutor said, bail is a constitutional right which is hinged on the discretion of the court.

The position of the law is that bail is a procedure by which a person arrested or detained in connection with the commission of a crime may be released upon security being taken for his (release) appearance on a day and place as may be determined by the person in authority effecting the release. It is the process by which an accused person is released temporarily from state custody to sureties on conditions given to ensure his appearance in court whenever he is required, see the case of **ONYEBUCHI V FEDERAL REPUBLIC OF NIGERIA (2008) ALL FWLR (PT. 425) 1627.**

The factors to be taken into consideration in granting bail includes the following considerations:-

- a. The nature of the offence and punishment prescribed.*
- b. The nature, character and quality of evidence against the defendant.*

- c. The possibility of the defendant interfering with further evidence, investigation and/or prosecution of the case if granted bail.*
- d. The prevalence of the offence.*
- e. Detention for the protection of the defendant.*
- f. The possibility of the defendant committing the same or similar offence while on bail.*
- g. The criminal record of the defendant*
- h. on the grounds of ill-health.*

*See the case of **BAMAIYI V STATE (2001)4 SCNJ; ABACHI V STATE (2002) FWLR (PT. 98) 863.***

Having perused the application before this court very carefully, it is my humble view that the charge for which the defendant is standing trial is a bailable offence more so, the prosecution did not oppose the admission of the defendant to bail sequel to this defendant/applicant is hereby admitted to bail in the sum of N10,000,000 with two responsible sureties in the like sum. Surety to work with a reputable organisation with a verifiable home and offices address. Sureties and the defendant are to deposit their international passport with the Registry of this honourable court.

Appearances:

Defendant in court

M.M Alsagaqafi for the defendant.

Ruling read in open court.

Signed

Presiding Hon Judge

16/03/2022