

**THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
HOLDEN AT ABUJA**

**THIS TUESDAY, THE 7TH DAY OF JUNE, 2022**

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

**SUIT NO: CR/677/21  
MOTION NO: M/5748/2022  
MOTION NO: M/5749/2022**

**BETWEEN:**

**THE FEDERAL REPUBLIC OF NIGERIA.....COMPLAINANT**

**AND**

**1. AHMED SHITU TATA** }  
**2. KABIRU YUSUF** } .....**DEFENDANTS/APPLICANTS**

**RULING**

The Defendants were arraigned on a 2 counts charge bordering on obtaining of certain sums under false practice contrary to the provisions of the Advance Fee Fraud and other Fraud Related Offences Act 2016. They duly pleaded not guilty and both Defendants filed applications for bail.

The application of the 1st Defendant is dated 17th May, 2022 with **M/5749/2022**. It is supported with an 8 paragraphs affidavit with 2 annexures marked as Exhibit A1 and A2. There is a written address in support which dealt with the settled principles governing grant of bail and it was contended that on the principles and materials supplied, the 1st Defendant has satisfied the conditions for grant of bail.

The 1st Defendant also filed a further affidavit in support and in response to the counter affidavit of complainant.

In opposition, the Complaint filed a counter affidavit on 1st June, 2022 with 8 paragraphs and one annexure marked as Exhibit EFCC 1. A written address was filed in support which equally dealt with the settled principles governing grant of bail and it was contended that because the 1st Defendant violated the administrative bail granted to him, that bail should not be granted.

At the hearing, counsel on either side relied on their processes in urging the court to grant and or refuse the bail application.

For the 2nd Defendant, the bail application is dated 17th May, 2022 with **M/5748/2022**. In support is an 8 paragraphs affidavit with a written address which equally dealt with the settled principles governing grant of bail. It was contended that the 2nd Applicant has satisfied all legal conditions to allow for bail to be granted.

The Complainant did not file any counter affidavit or oppose the application. At the hearing, counsel to the 2nd Defendant urge the court to grant bail on liberal terms. The defence counsel only indicated that she is not opposing the application.

I start with the latter application of 2nd Defendant. Since it is not opposed, the implication is that the facts in support of the bail application stands unchallenged or uncontroverted and are deemed admitted. There is therefore no feature that will prevent the court from granting bail. In the circumstances, the application of 2nd Defendant succeeds and bail will be granted on terms streamlined here under.

Now as rightly alluded to by counsel to the 1st Defendant, the question of whether to grant bail is entirely at the discretion of the court hearing the application having regard to the materials placed before it in the affidavit in support. However, such discretion must be exercise judicially and judiciously. See **Olawoye V. C.O.P (2006) AII FWLR (pt.309)1483 at 1485; Omisore V. State (2005)12 NWLR (pt.940)591 at 594**. The principles and or factors also developed by our superior courts governing the grant of bail are also well settled. I need not restate them.

In this case, it is clear that though the nature of the charge against the 2nd Defendant are sufficiently serious but they are nonetheless such that entitles him to bail under the provisions of **Sections 158, 162, 165 and 167 of the Administration of Criminal Justice Act 2015** except of course clearly streamlined circumstances are established or shown as to why the Applicant should not enjoy the benefit of bail pending the hearing and determination of the charge preferred against him.

Also as rightly submitted by learned counsel to the Applicant, the law presumes the 2nd Defendant/Applicant innocent of all the charges until the contrary is proved by the prosecution. See **Section 36 (5) of the 1999 Constitution (as amended)**. The salutary essence of bail is simply to ensure the attendance of the 2nd Defendant/Applicant at the trial of the charge preferred against her.

In the counter-affidavit of the Complainant, the basis of the opposition to the bail of 1st Defendant is the contention that the 1st Defendant flouted or violated the administrative bail he was granted. I have gone through the affidavit and there is nothing to situate or show the streamlined terms of the administrative bail or what 1st Defendant flouted. There is nothing to equally show when he was even arrested and when bail was granted to provide basis to hold that the 1st Defendant violated his administrative bail “**several times**” as alluded to in paragraph 6(n) of the counter-affidavit. I however note that the 1st Defendant has stated that he never violated the administrative bail he was granted vide paragraph 4(ii) and that the only time he did not make himself available was when he was ill vide **Exhibit A1** and which he communicated to the Complainant through the letter of his lawyers vide **Exhibit A2**.

In the circumstances, on the rather unclear facts surrounding the alleged violation of the administrative bail, the court has not been put in a commanding height to use the ground as a basis to refuse bail. The court will only ensure that it grants bail on terms or conditions that will ensure he is available to stand his trial.

On the whole, there is really nothing that will prevent the grant of bail to the 1st Defendant. I accordingly grant bail to the Defendants on the following terms:

1. ₦15Million each and one surety in the like sum.
2. Each of the surety shall be a citizen of Nigeria and a civil/public servant not below Grade Level 10 within the jurisdiction of court.
3. The surety shall provide a verifiable means of identification and a known place of abode.
4. Each of the surety shall depose to an affidavit of means.

The case is adjourned to 11th October, 2022 for hearing.

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**Hon. Justice A. I. Kutigi**  
**(Hon Judge)**

**Appearances:**

1. *Fatsuma Mohammed for the Prosecution*
2. *Adokwe Adams Adokwe, Esq., for the 1st Defendant*
3. *M.A Danmama, Esq., for the 2nd Defendant*

