

IN THE FEDERAL HIGH COURT OF NIGERIA

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ABUJA

ON THURSDAY, THE 7TH DAY OF JANUARY, 2016

BEFORE HIS LORDSHIP, HON. JUSTICE A. R. MOHAMMED

JUDGE

SUIT NO. FHC/ABJ/CR/389/2015

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA

.....

COMPLAINANT

AND

1. BELLO ABBA MOHAMMED

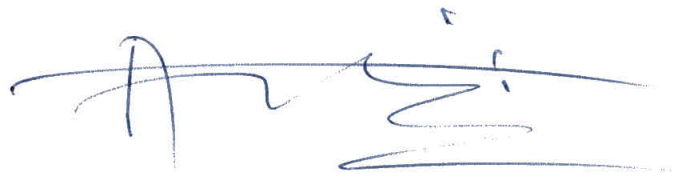
2. BAM PROJECTS AND PROPERTIES LTD

3. DR. BELLO H. MOHAMMED

}

..... DEFENDANTS

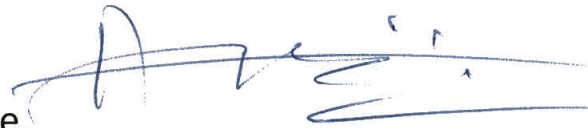
RULING



This ruling is in respect of the two applications dated 31/12/15 and 29/12/15 brought by the 1st and 3rd Defendants. In the said applications, the 1st and 3rd Defendants seek order of Court to be admitted to bail pending the determination of the charges against them.

As for the 1st Defendant, the grounds for seeking to be admitted to bail were given as follows:-

1. The 1st Defendant/Applicant was served with an advanced copy of the charge on the 23rd December, 2015.
2. The 1st Defendant/Applicant is presumed innocent until otherwise is proven.
3. The 1st Defendant has a constitutional guaranteed right to bail.
4. The application is in the interest of justice.



The 1st Defendant's application for bail is supported by a nine paragraph affidavit deposed to by Hakim Bakare, Legal practitioner in the law firm of Solicitors to the 1st Defendant. Attached to the affidavit in support are five exhibits marked A – E respectively. The application is also accompanied with a written address.

For the 3rd Defendant, the grounds for seeking to be admitted to bail are as follows:-

1. The 3rd Defendant/Applicant is presumed innocent until found guilty by a Court of law.

2. The charges preferred against the 3rd Defendant/Applicant are bailable and do not carry capital punishment after conviction.
3. The 3rd Defendant is bedridden and currently receiving medical attention at Abuja Clinics in Maitama – Abuja within the jurisdiction of this Court.

The 3rd Defendant's application is supported by a nine paragraph affidavit deposed to by Nasir Saidu, a counsel in the law firm of Solicitors to the 3rd Defendant. Attached to the affidavit in support are exhibits marked NS¹ – NS⁵ respectively. There is also a written address in support of the 3rd Defendant's application.

The Complainant/Respondent reacted to the two applications for bail with separate counter Affidavits both filed on 5/1/16. The two counter Affidavits were deposed to by Mohammed Goji, a detective with the Economic and Financial Crimes Commission. Attached to the Respondent's two counter Affidavit, are separate written addresses.



I have carefully read the affidavit in support of the applications of the 1st and 3rd Defendants, the exhibits attached to the said applications as well as the written address in support thereof. I have also read the two counter affidavits together with the written addresses attached to them.

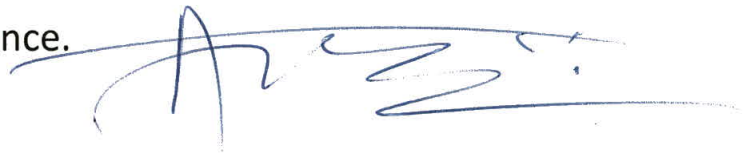
In law, bail pending trial is at the discretion of the Court, although, the discretion must be exercised judiciously and judicially, regard being had to the surrounding circumstances of each particular case. In the case at hand, the Applicants have contended both in the grounds of their applications and affidavits that the offences are bailable and that the Applicants have health challenges. As for the 1st Defendant, it was deposed that he is suffering from ailment relating to his breath. Exhibit "B", a report from Abuja Clinic stating that the 1st Defendant is suffering from bronchial asthma and gastritis. It was also stated in exhibit "B" that the 1st Defendant is required to have regular schedule follow up hospital visits for adequate monitoring of his medical conditions. See also paragraph 5 (d) and exhibit B of the 1st Defendant's affidavit in support of his application for bail dated 31/12/15.



As for the 3rd Defendant, it was deposed that the offences against him are bailable offences and that he is currently receiving treatment at the Abuja Clinics owing to the spinal surgery he undergone in London. See paragraph 2 of the 3rd Defendant's grounds for the bail application and paragraphs 4 (c), (d) and (e) of the affidavit in support of his application and exhibits NS¹ – NS⁵, which are photographs of the 3rd Defendant receiving treatment and medical Report issued in that respect by the Chief Consultant Physician at the Abuja Clinics.

As for the Complainant/Respondent, it's counter affidavit essentially deposed to the following:

- a. that if released on bail, the Applicants will escape from the jurisdiction and from Nigeria.
- b. that if released on bail, the Applicants will frustrate the Prosecution of this case.
- c. that the offences being alleged against the Applicants border on economic sabotage that strikes at the very foundation of Nigeria well being and existence.



See paragraphs 10, 11, 12 and 13 of the counter affidavit as against the 1st Defendant. As against the 3rd Defendant's application, the Complainant/Respondent made the same allegations. See paragraphs 10, 11, 12 and 13.

In this situation, the issue to be determined is, whether the Applicants have placed sufficient material in their applications to entitled them to the exercise of the Court's discretion in their favour. On the ground of the application to the effect that the offenses areailable offences, the Complainant/Respondent has not deny the fact that the offences areailable. In other words, there is nothing

before the Court to suggest that the offences attract capital punishment. In the case of EYU VS. STATE (1988) 2 NWLR PART 98, Page 602, it was stated thus:

“A liberal approach should be adopted by the Court in the consideration of an accused’s entitlement to bail in non-capital offences having regard to Section 32(1) of the 1979 Constitution. It is only where there are strong and weighty reasons suggesting that a prisoner will not come back to take his trial or that there is strong likelihood of his committing more offences if bail is granted, that bail should not be granted.....”




Furthermore, Section 162 of the Administration of Criminal Justice Act, 2015 states thus:-

“A Defendant charged with an offence punishable with imprisonment for a term exceeding three years shall on application to the Court, be released on bail, except in any following circumstances.

- (a) *where there is reasonable ground to believe that the Defendant will, where released on bail, commit another offence;*

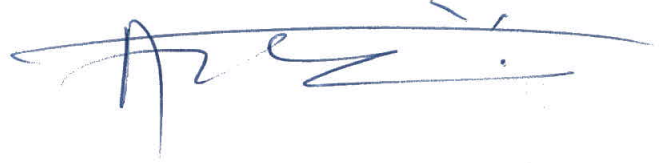
- (b) *attempt to evade his trial;*
- (c) *attempt to influence, interfere with, intimidate witnesses, and or interfere in the investigation of the case;*
- (d) *attempt to conceal or destroy evidence;*
- (e) *prejudice the proper investigation of the offence; or*
- (f) *undermine or jeopardize the objectives or the purpose or the functioning of the criminal justice administration, including the bail system.*



In paragraph 5, 6 and 7 of the Affidavit in support of the charge filed by the Prosecution, it was essentially deposed as follows:-

- a. that investigation into this case has been substantially concluded.
- b. that a prima facie case has been made out against the accused persons.
- c. that the Prosecution is ready to immediately commence trial.

It can therefore be seen that the Complainant has completed investigation in this matter and is ready to commence trial. That being the case, there is no part of the investigation that the Defendants could interfere with.



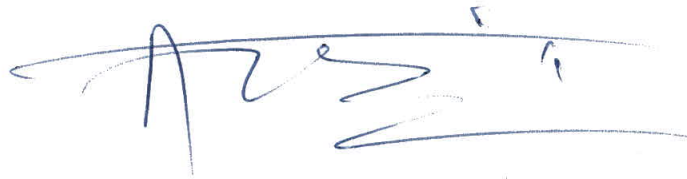
On the health ground canvassed by the Defendants/Applicants, it is clear by the affidavit evidence placed before the Court that the Defendants claim of ill health is not true. What I am trying to say is that the Complainant has not shown that the claim of ill health of the Defendants is false, or that the Medical Reports attached to the Applicants' affidavit are false. The contention of the Complainant that the Applicants have not shown that the prisons have no facilities to take care of the ill health of the Applicants, cannot, in my view, be a ground to defeat the application. This is because, if the Defendants are being treated in a hospital or clinic that can adequately take care of their ailment, then it would be most unfair to refuse the bail application. Furthermore, the Applicants have deposed in their respective affidavits that they will not jump bail, that they will provide credible sureties and that they will always attend Court to take their trial. See paragraphs 5(1), (j) and (l) of the 1st Defendant's affidavit and paragraphs 4(j), k (l) of the 3rd Defendant's affidavit.

On the whole, I am satisfied that the 1st and 3rd Defendants are entitled to bail in the peculiar circumstances of this case. I therefore

admit the 1st and 3rd Defendants to bail pending trial in this case. The bail is however on the following terms and conditions:-

1. For the 1st Defendant – the conditions of his bail are as follows:-

a. Sum of ~~N~~300 million.



b. Two sureties in the sum.

c. One of the sureties shall be a civil servant in the employment of the Federal Government or any of its Agencies and shall not be below grade level 12.

d. The second surety shall be a holder of landed property in the Abuja FCT whose title documents must be surrendered to the Court and the value of the property shall be equal to the amount of ~~N~~300 million.


e. The 1st Defendant shall deposit his International Passport with the Registrar of the Court.

f. The two sureties shall swear to Affidavit of Means to cover the amount of bond.

g. The sureties and the 1st Defendant shall submit their most recent passport photographs.

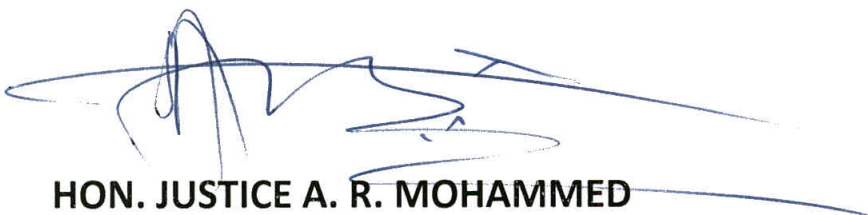
- h. An Officer of the Court shall verify the particulars of the sureties.

For the 3rd Defendant – the conditions of his bail are as follows:-

- a. Sum of ~~N~~300 million. 
- b. Two sureties in the sum.
- c. One of the sureties shall be a director in the employment of the Federal Government or any of it's Agencies.
- d. The second surety shall be a holder of landed property in the Abuja FCT whose value must cover the amount of bond.
- e. The title documents of the property must be surrendered to the Court and shall remain with the Court throughout the trial of this case.
- f. The 3rd Defendant shall surrender his International Passport to the Registrar of this Court.

- g. The sureties and the 3rd Defendant shall swear to Affidavit of Means to cover the amount of bond.
- h. The sureties and the 3rd Defendant shall submit their most recent Passport photographs.
- i. An Officer of the Court shall also verify the particulars of the sureties for the 3rd Defendant.

Meanwhile, the 1st Defendant shall remain in Kuje prison until the satisfaction of his bail conditions. As for the 3rd Defendant, he shall continue to be under the supervision of the Inspector General of Police as earlier directed by the Court until he fulfils the conditions placed on the bail granted to him.



HON. JUSTICE A. R. MOHAMMED
JUDGE
7/1/16.

APPEARANCES:-

Aliyu M. Yusuf Esq. with Salisu Majidadi Esq., O. A. Atolagbe Esq.,
Andrew Akoja Esq. and H. O. P. Ejiga Esq. for the Prosecution;
O. Osoka Esq. with H. Bakare Esq. for the 1st Defendant;

Wale Balogun Esq. for the 2nd Defendant;

Abdulaziz Ibrahim Esq. with Nasir Saidu Esq., A. I. Muhammad Esq.
and S. S. Samuel Esq. for the 3rd Defendant;