

**IN THE FEDERAL HIGH COURT OF NIGERIA**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT ABUJA**

**ON WEDNESDAY THE 2<sup>ND</sup> DAY OF MARCH, 2016**

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

**(JUDGE)**

**SUIT NO. FHC/ABJ/CR/268/2015**

**BETWEEN:-**

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

**AND**

**1.     FRANKLIN OLUWOLE (M)                    .....                    ACCUSED**  
**2.     BALA TIJANI (M)                                .....                    ACCUSED**

**RULING**



By a motion on notice dated 12/10/15, the 1<sup>st</sup> Applicant prays for:-

An order admitting the Applicant to bail pending his trial.

The application is supported by an eight paragraph affidavit deposed to by Lawani Isaac, the Applicant's cousin. The affidavit is attached with one annexure marked exhibit "A". There is a written address accompanying the motion for bail.

The complainant reacted to the motion on notice for bail with a counter Affidavit deposed to by Rifkatu Philip Barde, an Assistant Litigation Officer with the NDLEA, FCT Command. Attached to the counter Affidavit is one exhibit marked NDLEA1. There is a written address in support of the counter Affidavit.

The two Defendants are standing trial for being in possession of 66 klg of Indian hemp.

The grounds of the application are contained in paragraph 4 (a) – (e) of the affidavit in support of the motion for bail, which are to the effect that:-



- a. that he desires to be granted his bail.
- b. that if granted bail he will provide reasonable surety to stand for him.
- c. that he will not jump bail nor escape from justice, but will always be available to stand his trial.
- d. He will not commit any offence while on bail.
- e. He will not interfere with the investigation of the matter, if any.

In the counter affidavit, it was deposed in paragraph 8 that in view of the large quantity of drugs involved in this case and the severity of punishment prescribed, the Applicant may jump bail if granted.

The deposition in paragraph 8 of the counter affidavit has not been denied by the Applicant in a further affidavit. In law, facts deposed in an affidavit, if not countered, is deemed accepted. See the case of **THE HONDA PLACE VS. GLOBE MOTORS LTD (2005) 14 NWLR PART 945 page 273 at pages 293-294 paragraphs F-A.** In this situation, one would have expected the Applicant to file Further Affidavit to show that the facts deposed to in paragraph 8 of the counter affidavit are not true. In law, severity of punishment for an offence has always constitute ground to refuse bail. See the case of **BAMAIYI VS. STATE (2001) 2 ACLR, Page 467 at Page 470 lines 22 – 37.**

It is for the above reasons that the Court is unable to grant the bail application of the 1<sup>st</sup> Defendant. The motion is accordingly dismissed.



**HON. JUSTICE A. R. MOHAMMED**  
**JUDGE**  
**2/3/16.**

**APPEARANCES:-**

Mike Kassa Esq. for the Prosecution.

O. B. James Esq. for the 1<sup>st</sup> Defendant/Applicant.

Umar Abdullahi Esq. for the 2<sup>nd</sup> Defendant/Applicant.