

IN THE FEDERAL HIGH COURT OF NIGERIA

IN THE WARRI JUDICIAL DIVISION

HOLDEN AT WARRI

ON TUESDAY THE 30TH DAY OF NOVEMBER, 2021

BEFORE HIS LORDSHIP, HON. JUSTICE OKON E. ABANG
JUDGE

CHARGE NO: FHC/WR/58^c/2021

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA PLAINTIFF

AND

EZE NJOKU DEFENDANT

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NAME V. U. Eze

SIGN [Signature]

DATE 5/7/2021

FEDERAL HIGH COURT

WARRI H-2-0

RULING

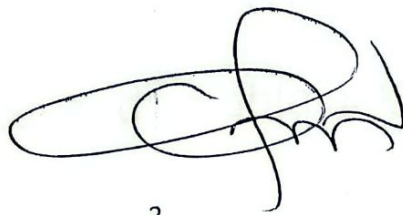
In a motion for Bail dated 20/10/2021 brought pursuant to sections 158, 159 and 162 of Administration of Criminal Justice Act 2015 and sections 35 (4) A & B and 36 of 1999 Constitution as amended, the Applicant Eze Njoku prayed this court to admit him to Bail on liberal terms pending conclusion of trial in this matter.



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The application is supported by 10 paragraphs affidavit dated 20/10/2021 deposed to by Mmaju Henry Ndubuisi the Applicant's brother in-law to which several documents are attached marked exhibits A, B 1, and B 2, C, D, E and F 2, exhibit F respectively. There is a written address attached to the application dated 20/10/2021. There is also a reply to the counter affidavit dated 17/11/2021 and a reply on points of law dated 15/11/2021.

Learned counsel for the Applicant O. A. Egharevba holding the brief of D. Ogbankubi on the two days the application was argued that is 16/11/2021 and 19/11/2021, adopted the processes mentioned above and then urged the court to admit the defendant to Bail on liberal terms pending conclusion of trial.



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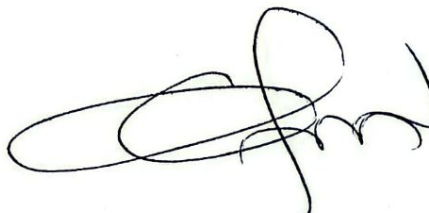
On his part learned counsel for the prosecution A. A. Ozigbu referred the court to the complainant's counter affidavit dated 3/11/2021 and filed same day and the written address still dated 3/11/2021 and then urged the court to refuse Bail.

I have considered facts deposed to by the defendant in his affidavit in support. I have also considered the Applicant's written address and Reply on points of law.

I have again considered facts deposed to by the complainant in its counter affidavit and submission of counsel in his written address in opposition to the Bail application of the Defendant.

The Defendant/Applicant was arraigned before this court as presently constituted on 15/10/2021 on a 6 Count Charge that he was accused of obtaining money by false

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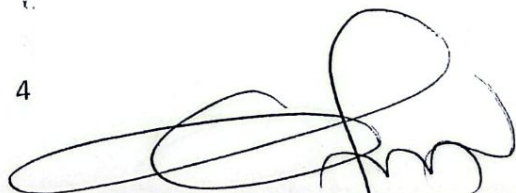


pretences cumulatively the sum of **One Hundred and Twenty-Nine Million Naira (N129,000,000.00)**.

That those sums of monies were transferred from the account of Sa-Fx Global Bank account domiciled in Eco Bank which funds the Defendant ought to have known forms part of unlawful act of Smart Alban Ike to wit obtaining by false pretence. That these funds were allegedly in possession or control of the defendant.

That funds were transferred allegedly to the defendant's, account domiciled in FCMB Plc. That part of this funds was transferred to the Defendant's account from the account of Ojevwe Stella Anumah which the defendant ought to have known forms part of the unlawful act of Smart Alban Ike. The Defendant pleaded not guilty to the

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allegation of commission of various offences as contained in the 6 count charge.

He then applied for his Bail which this court at this stage has jurisdiction over him either to grant or refuse the application. It all borders on the discretion of the court which has to be exercised both judicially and judicially. The exercise of the court's discretion should points at nothing except the justice of the case. The court must balance competing rights of the parties before it to justice. The right of the Defendant to be admitted to Bail if the court finds it deserving and the right of the prosecution to ensure that the Defendant comes to court at all times to attend to his trial.

Apart from depositions paragraph 5 of the affidavit in support of the application, some of the depositions in

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paragraphs 1 to 4 of the affidavit do not really concern the Bail of the defendant rather it will be relevant in the main trial.

What is relevant in my view is if the court admits the Defendant to bail whether he will attend court to stand for his trial. That is why the prosecution have expressed the fear that if the Defendant is admitted to Bail because of the seriousness and severity of punishment upon conviction, that the defendant will jump bail according to the prosecution flee from justice. Depositions in paragraph 4 of the counter affidavit is instructive here. That the Defendant, one Smart Alban Ike and their alleged cohorts received over **One Billion Naira (N1,000,000,000.00)** from the nominal complainants and other unsuspecting members of the public, closed down their offices without



address to locate them and used the money to buy luxury cars and houses all over the country and living luxurious lifestyles.

The prosecution stated that if the Applicant is released on Bail, he will jump bail and undermine or jeopardize the objective of the purpose of the functioning of the criminal justice administration including the Bail system.

That the purpose of granting bail is to make the accused person attend trial. That where the accused fails to attend his trial resulting from the grant of such bail, then according to the learned counsel for the prosecution the purpose is not achieved. That if that is so justice would have lost its right arm. That the court should refuse the application and reprimand the Applicant's counsel for forum shopping.

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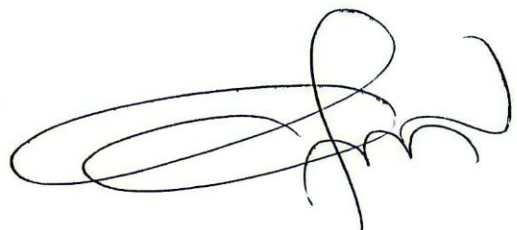


As to whether or not the Defendant should be admitted to Bail is in issue, the offences contained in the 6 count charge are in the realm of allegation. It is up to the prosecution to prove those allegations against the Defendant beyond reasonable doubt to secure conviction failing which the Defendant will be entitled to a discharge and acquittal.

Therefore he is presumed to be the innocent until the contrary is proved. To this end, I am willing and/or inclined to take a risk to admit him to bail notwithstanding the nature of offences that he has been charge with and severity of punishment upon conviction.

In order to arrest the fear expressed by the prosecution, conditions will have to be put in place to guarantee the

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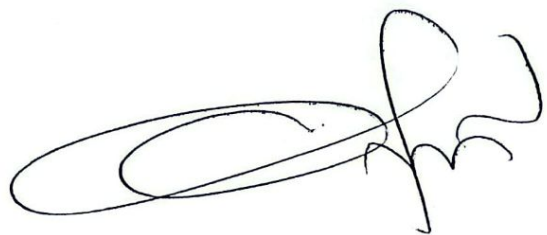


appearance of the Defendant in court to stand for the
conclusion of the matter.

Having regard to the amount involved in this matter which
is about **One Hundred and Twenty-Nine Million Naira**
(**₦129,000,000.00**), the defendant is admitted to Bail in the
sum of **One-Twenty Million Naira** (**₦120,000,000.00**) with
2 sureties in the sum of **Sixty Million Naira**
(**₦60,000,000.00**) each.

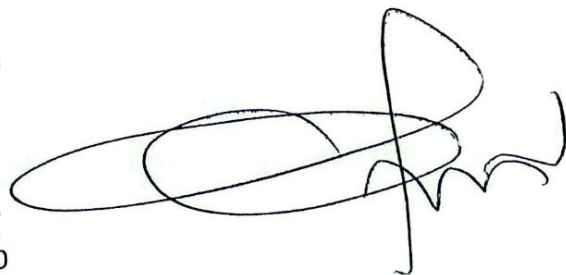
1. One of the sureties must be a serving member of
Delta State House of Assembly with landed
property in any of the following cities Warri,
Asaba or Sapele with statutory Certificate of
Occupancy.

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WARRI H.R.D



2. The 2nd surety must be owner of landed property with statutory Certificate of Occupancy in Warri, Asaba or Sapele.
3. The property in items 1 & 2 above must worth **Sixty Million Naira (N60,000,000.00)** and above valued by a recognised registered valuer which report must be in writing. The valuer must furnish the court with his Certificate of Registration the Original of which shall be deposited in court pending conclusion of trial.
4. The Senior Registrar I of this court Warri Division Shall verify the validity or genuineness of the Certificates of Occupancy of the property of the two sureties in writing at Lands Registry Asaba.

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DATE 5/7/2024



5. The sureties shall provide tax Clearance Certificates for 3 years proceeding the Bail application.
6. The prosecution through the investigating officer shall in writing within 24 hours of being put on Notice confirm the residence of the (2) sureties to be in either Warri, Sapele or Asaba of Delta State.
7. The each of the sureties shall depose to facts stating that in the event that the Defendant jumps Bail, that the court shall dispose of the properties pledged as security for his Bail to recover **Sixty Million Naira (N60,000,000.00)** penal sum and in addition of remanding him in Correctional Centre pending when the Defendant is re-arrested.
8. The sureties shall depose to affidavits of means with two Passport Photographs attached different

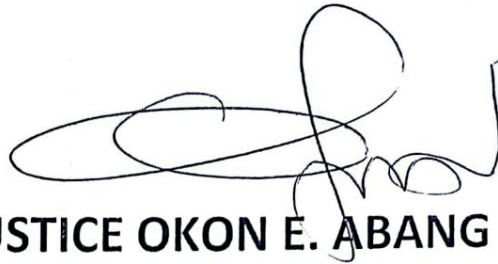
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from affidavit of facts above stated indicating that he has the Capacity and Capability to refund the penal sum in the event of being call upon to do so.

I so hold.

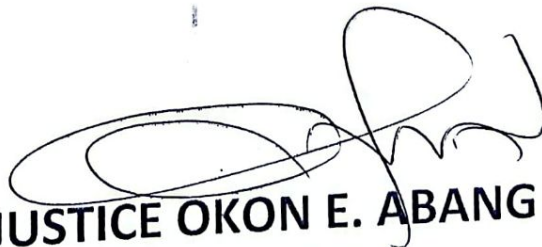


HON. JUSTICE OKON E. ABANG
PRESIDING JUDGE
30/11/2021

APPEARANCES:

A. O. EGHAREVBA ESQ. HOLDING THE BRIEF OF D. OGBAKWA ESQ. FOR THE DEFENDANT.

F. A. JIRBO ESQ. WITH HIM I. K. AGWAI ESQ. FOR THE PROSECUTION.



HON. JUSTICE OKON E. ABANG
PRESIDING JUDGE
30/11/2021



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DATE 5/11/2024
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