IN THE HIGH COUT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

CHARGE NO: CR/289/2025

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA COMPLAINANT/RESPONDENT

AND

1. **HASSANA JOCOB**
2. **AISHA SULEIMAN** } **DEFENDANTS/APPLICANTS**
3. NKECHI UDOH **DEFENDANT/RESPONDENT**

MOTION ON NOTICE BROUGHT PURSUANT TO SECTION 161(1)(2)(b) and (c) OF ADMINISTRATION OF CRIMINAL JUSTICE ACT 2015, ARTICLE 5 OF AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (RATIFICATION AND ENFORCEMENT) ACT CAP. 10 LFN 1990 ACT CAP. A 9 L.F.N. 2004, SECTION 36(5) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 (AS AMENDED), AND UNDER THE INHERENT JURISDICTION OF THE HONOURABLE COURT.

TAKE NOTICE that this Honourable Court will be moved on -------- day of ----------, 2022 at the hour of 9 O'clock in the forenoon or so soon thereafter as the Applicant or Counsel on his behalf may be heard praying the Honourable Court for the following orders:

1. **AN ORDER OF THE HONOURABLE COURT** admitting the 1st and 2nd Defendant/Applicant bail pending the hearing and determination of the charge in this case.
2. And for such Order or further Orders as the Honourable Court may deem fit to make for the protection and preservation of the 1st and 2nd Defendant/Applicant's fundamental rights to presumption of innocence, fair trial and personal liberty.

GROUNDS OF APPLICATION

1. The 1st and 2nd Defendant/Applicant are presumed innocent and entitled to bail as a matter of course.
2. The prolong period of arrest, investigation, detention and trial of the 3rd Defendant/Applicant constitute a special circumstance that ipso facto renders bail grantable in this case.
3. That the 1st and 2nd Defendant/Applicants' have cooperated with the prosecution all through investigation

Dated this --------- day of ----------2025

Dayo G. Ashonibare, Esq.LLM **ACIArb. (UK)**
Simiat Sulaiman, Esq
Christabel Offor, Esq
Blessing Etamessor, Esq
Jibril Ibrahim, Esq
Adamu Abbas Ahman, Esq
***(1st and 2nd Defendant/Applicant's Counsel)*,**

Levite Solicitors & Arbitrators
Block 15D Salis Court Phase II Efire
Ileogun Street Gwarinpa II Abuja FCT-
Abuja
08033661414
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hello@levitesolicitors.com

For Service on:

FOR SERVICE ON:

1. **Complainant/Respondent**

   C/o of his Counsel,
   Wokemba Nneoma
   Chief Legal Officer
   NAPTIP HEADQUATERS
   PLOT 2028 Dalaba Street, Wuse Zone 5,
   FCT-ABUJA
   08033337473

2. 3rd Defendant
   Catholic Church Tungan Maje
   FCT-Abuja

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2. **AISHA SULEIMAN** }
3. NKECHI UDOH — **DEFENDANT/RESPONDENT**

AFFIDAVIT IN SUPPORT OF MOTION ON NOTICE FOR BAIL

I, Comfort Ikechukwu, Female, Christian, Nigeria, Citizen of Nigeria of Block 15D Salis Court, Gwarimpa FCT Abuja, do hereby make oath and solemnly declare as follows:

1) That I am the Litigation Secretary of the 1st and 2nd Defendant Applicants' Counsel, by virtue of which I am conversant with the facts deposed herein.
2) I have the consent and authority of the 1st and 2nd Defendant Applicants' and my Employer to depose to this affidavit from facts within my personal knowledge except where otherwise stated.
3) I was informed by the 1st and 2nd Defendant Applicants at the instance of the Lead Counsel to the Applicant during a case review/briefing at our aforementioned office at about 12noon on the 16th of July, 2025 of the following facts which I verily believe to be true as follows:
4) That they have been served with a charge before the Honourable court and their arraignment scheduled to hold on the 21st of July, 2025
5) That they have never been tried or convicted by any Court or any Tribunal for any criminal offence.
6) That they will not, if granted bail, engage in any criminal conduct whatsoever.
7) That I will not jump bail, escape from justice, interfere with the course of justice, witnesses or investigation when I am granted bail by this Honourable Court.
8) That they undertake to make themselves available at all times for their trial before this Honourable Court.
9) That they are fully prepared to abide strictly by any conditions which this Honourable Court may impose upon granting them bail pending their trial in this matter.

10) That they had all along cooperated with the Respondent in the course of its investigation and will continue to do the same till conclusion of their trial before this Honourable Court.
11) That they undertake not to attempt to evade their trial, but to be present at all times before this Honourable Court or any other Court where necessary, to stand their trial, as they demonstrated when they were served their charge and voluntarily submitted themselve for arraignment.
12) That they had all along cooperated with the Respondent in the course of its investigation and will continue to do the same till conclusion of their trial before this Honourable Court.

13) That they will not, if released on bail, engage in any activity that will have the purpose or effect of undermining or jeopardizing in any way, shape or form, the aims or functions of the criminal justice system including the bail system.
14) That if they are not granted bail, they will not be able to receive their Counsel's full assistance in preparing their defence and also in locating and securing relevant evidence to prepare for their defence, all of which can only be done meaningfully and effectively if this application is granted.

15) That they will require my Counsel's close and active assistance in sifting and sorting through massive amounts of documents and also in verifying and where necessary, securing controverting documentary evidence. All this can only be achieved if they are released on bail and available to receive such close and active assistance from their Counsel.

16) That the Respondent will not be prejudiced if this application is granted.
17) That it will be in the interest of justice to grant this application.
18) That I depose to this affidavit in good faith conscientiously believing same to be true and correct in accordance with the Oaths Act 2004.

DEPONENT

Sworn to at the FCT High Court Registry, Maitama

This ---------- day of ---------- 2025

BEFORE ME

COMMISSIONER FOR OATHS

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WRITTEN ARGUMENT IN SUPPORT OF MOTION FOR BAIL

1. **INTRODUCTION**

1.1 This motion on notice is brought pursuant to Sections 35(4) and 36(5) of the 1999 Constitution of the Federal Republic of Nigeria, Sections 158, 162 and 165(1) of the Administration of Criminal Justice Act, 2015 and under the inherent jurisdiction of this Honourable court.

1.2 This motion is praying for the following orders:

1.2.1 **AN ORDER** of this Honourable Court admitting the Applicant to bail pending trial on such favourable and liberal terms as this Honourable Court may deem fit to make in the circumstances of this case.

1.2.2 **AND** for such further order(s) that this Honourable Court may deem fit to make in the circumstances.

1.3 This motion is supported by 18 (Eighteen) paragraphs affidavit deposed to by the Litigation Secretary of Counsel to 1st and 2nd Defendant/Applicant.

1.4 We rely on all paragraphs of the affidavit.

2.0 **RELEVANT FACTS**

2.1 The Applicant respectfully submits that the facts relevant to this application are as contained in the supporting affidavit.

3.0 **ISSUES FOR DETERMINATION**

3.1 The Applicant respectfully submits a sole issue for the determination of this Honourable Court, to wit: -

> ***"Whether in the circumstances of this case and in the interest of justice, the Applicant is entitled to an order of this Honourable Court admitting him to bail pending trial."***

4.0 LEGAL ARGUMENT

4.1 It is humbly and respectfully submitted on behalf of the Applicant that in the interest of justice and the peculiar circumstances of this case, the Applicant is entitled to an order of this Honourable Court admitting him to bail pending trial in the exercise of this Honourable Court's undoubted discretion.

4.2 It is trite law that the grant or refusal of an application for bail is at the discretion of the Court, which discretion should be exercised judicially and judiciously. We respectfully submit that having regards to the peculiar circumstances of this case, the totality of evidence before this Honourable Court and the state of the law, the interest of justice will be best served if this Honourable Court exercises its discretion in favour of the Applicant.

4.3 **Section 35(1) of the Constitution of the Federal Republic of Nigeria 1999** guarantees the personal liberty of every Nigerian Citizen including the Applicant. Furthermore, the Constitution in section 36 (5) **of the Constitution of the Federal Republic of Nigeria 1999** presumes the innocence of every citizen until that citizen has been proven guilty before a competent Court. Until that happens, the citizen is entitled to every right guaranteed under the constitution including the right to his personal liberty.

4.4 The presumption of innocence under **Section 36 (5) of the Constitution of the Federal Republic of Nigeria 1999** is sacrosanct. It is to avoid a situation whereby an accused is kept in custody pending trial only to discover at the end that he is innocent of the offence with which he is charged. Thus, it is better that an accused person is allowed to enjoy his liberty pending trial and if he is found guilty, he would proceed to observe his conviction.

4.5 In ***Adams v. Attorney-General of the Federation*** **(2007) AFWLR (Part 355) Page 429 at 445 Paragraphs B-D**, the Court of Appeal, Abuja Division, held, inter alia, as follows:

> ***"The Court presumes in favour of the liberty of the subject and his innocence until found guilty. Therefore, the onus is on the prosecution to show in a given case that an Accused or Applicant for bail is one that should be refused bail."***

4.6 It is humbly submitted that the main objective of granting bail to an Accused persons is to ensure that the Defendant presents himself in Court to stand his trial. Once this is guaranteed, an application for bail will succeed. My Lord, at the point of seeking for bail, it is not the duty of an Accused person to prove his innocence. That is an issue

meant for the main trial. The essence of bail is to ensure that the Accused presents himself for trial, nothing more.

4.7 The Court of Appeal restated the above position in the case of ***OMOLARA V. STATE*** **(2004) 1 NWLR (PART 853) PAGE 80 AT 89-90 PARAGRAPHS F-A**, where the Court of Appeal held thus:

> ***"The main objective of bail is to ensure that the accused person does present himself for trial....."***

4.8 Similarly, it was held in the earlier case of *ANAEKWE V C.O.P* **(1996) 3 NWLR 12 (Pt 436) 332 at Paras B – C (Condensed as Ratio 7)** that the essence of bail is to ensure that the Accused person comes to stand his trial and further held that bail should not be used as a punishment to an accused person. The Apex Court in the case of ***SAIDU VS. STATE*** **(1982) 4SC PG. 42 AT 67 - 70** in underlining the importance of presumption of innocence per Obaseki JSC held thus:

> ***"It does not give the Court any special joy to see that an offender escapes the penalty they richly deserve but until they are proved guilty under the appropriate law in our law court, they are entitled to walk about in our street and tread the Nigerian soil and breathe the Nigerian air as free as innocent men and women."***

4.8 Most respectfully My Lord, this position of law is no respecter of parties and subsists. We urge my Lord to apply same to the instant case and admit the Applicant to bail as it accords with the notion of justice for a Defendant to enjoy his freedom and attend Court proceedings in respect of the charge from home, because at the stage of his trial, he is presumed innocent, until a conviction is returned and a sentence passed.

4.9 We call in aid the decided case of ***OGBHEMHE V. C.O.P*** **(2001) 5 NWLR (PT 706) 215 RATIO 4 AND UDEH V FRN (2001) 5 NWLR (PT 706) 312 RATIO 8** where it was reiterated that by virtue of Section 36(5) of the 1999 Constitution, there is always the presumption of innocence and the right to liberty in favour of an Accused person. We urge this Honourable Court to uphold this age long presumption of innocence in favour of the Applicant.

4.10 My Lord, we submit that, for the purpose of determining this application, the most relevant consideration is; having regards to the circumstances of this case and the materials placed before this Honorable Court, would the Applicant present himself for further investigation and trial? We submit that the answer to this can already be deduced from the conduct of the Applicant so far and facts contained in the supporting affidavit.

4.11 **Section 162 of the Administration of Criminal Justice Act, 2015** is also apt here and it provides that:

> ***"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 of the 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."***

4.12 We submit that the Applicant constantly and willingly obliged the invitation of the Respondent during the cause of investigation till when they were granted administrative bail on liberal terms by prosecution.

4.13 My Lord, we submit most respectfully that none of the conditions stated above applies to the Applicant, who had voluntarily submitted himself to the Respondent at any time he is needed during the cause of investigation.

4.14 We also wish to emphasise that the Applicant has in the supporting affidavit undertaken not to breach any of the conditions that may be imposed on him by this Honourable Court if granted bail. We respectfully refer Your Lordship particularly to **paragraph 8 and 9** of the affidavits in support of this application.

4.15 We humbly urge your Lordship to be liberal in considering this application and in so urging, we respectfully refer to and rely on the leading case of **OBEKPA v. THE STATE (1980) NCR P. 115** where at **P. 118,** the following passage occurs:

> *"……Unless the right to bail or to freedom before conviction is preserved, protected and allowed, the presumption of innocence constitutionally guaranteed to every individual accused of a criminal offence would lose its meaning and force. It is the duty of the court to uphold the spirit of this constitutional guarantee and to give it flesh and blood in practical terms…It follows…..that the attitude of the court has to be geared towards a liberal approach to the consideration of applications for bail, in the hope of realising that desirable goal…..of adequately protecting the liberty of the individual……"*

4.15 We further refer Your Lordship to **OBEKPA v. THE STATE (SUPRA) at P. 117** where it was stated as follows;

> *"The Spirit of the Constitution is to keep an accused person out of incarceration until found guilty through the process of court trial. It is a conditional privilege which he is entitled to under the constitution. The reason for such privilege is obvious……staying out of prison guarantees easy access to counsel and witnesses and ensures unhampered opportunity for preparation of the defence."*