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**IN THE COURT OF APPEAL
IN THE ENUGU JUDICIAL DIVISION
HOLDEN AT ENUGU**

ON MONDAY THE 24TH DAY OF JUNE, 2019

BEFORE THEIR LORDSHIPS:

C. CCFY
30/1/2020

MONICA B. DONGBAN-MENSEM
MISITURA OMODERE BOLAJI-YUSUFF
J.O.K. OYEWOLE

- JUSTICE, COURT OF APPEAL
- JUSTICE, COURT OF APPEAL
- JUSTICE, COURT OF APPEAL

APPEAL NO: CA/E/23C/2019

BETWEEN:

EMMANUEL UDORJI

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APPELLANT

AND

THE STATE

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RESPONDENT

JUDGMENT

DELIVERED BY MONICA BOLNA'AN DONGBAN-MENSEM, JCA

1. On The Meaning Of Bail

There exists a plethora of authorities on the position that bail is the setting at liberty of an Accused Person subject to certain condition, mainly of which will ensure the person been set free from custody will appear as and when he is or will be required – See **CHUKWU V. FRN & ANOR (2018) LPELR -44579** and **OGUNSOLA & ANOR V. STATE OF LAGOS & ORS (2016) LPELR – 40579.**

2. Whether The Grant Of Bail Is Discretionary

The decision whether or not to grant bail in such a case is a matter of judicial discretion of the learned trial Judge exercisable after

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consideration of the facts, law and circumstances of the case before it. See **AKANO V. FRN (2016) 10 NWLR (Pt. 1519) 17, FAWEHINMI V. STATE (1990) 1 NWLR (Pt 127) 474** and **ABACHA V. STATE (2002) 11 NWLR (Pt 779) 437.**

3. On Exercise Of Discretion

The learned trial Court, which is in the best position to see, hear and perceive the Appellant's demeanour elected to keep him in safe custody for reasons the court might have deciphered from the circumstances of the case and comportment of the Appellant...This is an exercise of discretion which this court is usually slow to interfere with. Without a doubt, authorities are replete on the position that the grant of bail is a discretion exercisable by the court and this discretion must be exercised judicially and judiciously – See **CHUKWU V. FRN & ANOR (2018) LPELR – 44519, OGBUARU V. FRN (2011) 12 NWLR (Pt. 1260) 100** and **BAMAIYI V. THE STATE (2001) 8 NWLR (Pt. 715) 270.**

4. Considerations For The Grant Of Bail

The nature of the Appellant's offence and the circumstances are such that place an Accused Person in a situation of apprehension of the welfare of a community. The interest of the community must



supersede that of an individual given the peculiar circumstances of this case.

In this appeal, the facts are that the Accused is a native doctor and therefore wields considerable authority in the community. In other words, he has the capacity to arouse dissension in the community in terms of local war. The court must be wary of granting him bail. The learned trial court has in its wisdom elected to accelerate the hearing of the Appellant's case; this court must respect that decision.

The reason is that there is too much at stake, our communities have been easily excitable and persons alleged to be participants to the originators of such dissension in the community should be kept under close watch.

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