

**IN THE CIRCUIT COURT HELD AT ACHIMOTA, ACCRA ON FRIDAY,
THE 8TH DAY OF SEPTEMBER, 2023 BEFORE HER HONOUR AKOSUA
ANOKYEWAA ADJEPONG (MRS.), CIRCUIT COURT JUDGE**

CASE NO.:
D2/006/23

THE REPUBLIC

VRS

LINDA BROWN

ACCUSED PERSON PRESENT

CHIEF INSPECTOR CHRISTOPHER ASANTE FOR THE REPUBLIC PRESENT

OLIVIA TAWIAH TETTEH HOLDING THE BRIEF OF BABA JAMAL M. A.
ESQ. FOR THE ACCUSED PERSON PRESENT

RULING

This is a ruling on an application by counsel for the accused praying for motion on notice for the variation of bail conditions. The accused person was charged with the offence of fraudulent breach of trust contrary to section 128 of the Criminal Offences Act, 1960 (Act 29). She pleaded not guilty to the charge; and the Court admitted her to bail. Among the bail conditions was for the accused person to deposit her passport at the registry of this Court. The accused has thus deposited her passport which is in the custody of the registry of this Court. Counsel prays the Court to release the passport belonging to the accused person

to her and an order for her name to be removed from the Block List at the Kotoka International Airport to enable her travel with her sick son for medical attention in the United Kingdom where his doctors are.

In a twenty-one paragraphed affidavit in support of the motion, deposed to by the accused person, she makes several assertions based on which she prays the Court to exercise its discretion in her favour. The accused person deposed to certain facts among others that she planned to stay in Ghana for only one month with her son and therefore took along his medication for only one month but due to the seizure of her passport, she has been in the country for over four months now. That her son's health condition is getting worse and she needs to travel with him abroad for medical attention. That his health solicitors continue to call almost every day and they have written to them. She attached the medical records as exhibit LB 'A'.

That as a result of his deteriorating health condition she has had to resort to hospitals in Ghana especially Korle Bu Teaching Hospital, Pantang Hospital, University of Ghana hospital as well as Psychiatric Hospital in Accra. She attached receipts and medical reports from these health facilities on her son as exhibit LB 'B'.

According to the applicant, the continuous stay in the country is not only affecting her son medically but also academically as he has lost a whole semester this year. She continued that she is not a flight risk at all. That she is a Ghanaian with her family members here in Ghana and she is ready to stand trial when she is called upon to do so anytime.

She prayed the Court for a variation of the bail conditions for the release of her passport and an order for her name to be removed from the Block List at the Kotoka International Airport to enable her travel with her sick son for medical attention in the United Kingdom where his doctors are. She further prayed to be given some reasonable time to take her son to the United Kingdom and also to make arrangements for his care and return to Ghana to vindicate herself in this matter.

In his argument of the motion, Counsel for the accused person/applicant relied on the depositions in the affidavit in support of the motion and the exhibits attached.

The prosecution was served with the motion but they did not file an affidavit in opposition. The substantive prosecutor was absent in court at the time the motion was moved; and the prosecutor who held brief for the substantive prosecutor informed the court she was not briefed as to the instant application.

I have read the motion paper, the supporting affidavit together with the attached exhibits. I have also considered at length the submission made by counsel for the accused person/applicant.

It is a fact that the applicant was admitted to bail in this case when she was arraigned before this Court. As a condition of the bail, she was required to among others, deposit her passport to the registry of the Court. In compliance with the Court's order, the accused deposited her passport with the registrar of the Court.

It is the case of the accused person that her son's medical condition is getting worse and she needs to travel with him abroad for medical attention. Counsel for the accused person prays by this application that an order be made to release the passport which the accused person deposited in Court to enable her travel with her sick son for medical attention and for an order for her name to be removed from the Block List at the Kotoka International Airport.

The accused person claims that her son is sick and is in need of medical treatment. She attached exhibits LB 'A' and LB 'B' in proof of her assertion. I have carefully studied the said exhibits. Exhibit LB 'A' includes a letter authored by Mould Haruna Solicitors which has the health record of one Isaac Brown, the said son of the accused person attached. The letter in exhibit LB 'A' is not authored by the GP or doctor of the accused person's son indicating that he needs to return to the United Kingdom; but a solicitor who claims to have previously advised and assisted the accused person with respect to public law children and general family law matters. Exhibit LB 'B' series also indicate that the son of the accused person in June and July 2023 attended the Korle Bu Teaching Hospital, Pantang Hospital and the University of Ghana Medical Centre. None of these exhibits suggests that there is a medical report authored by a medical doctor who attended to the son of the accused person and advised medically that the hospitals in Ghana cannot give the necessary medical attention he seeks.

It is my considered view that the son of the accused person is entitled to the best of medical treatment and attention available to ensure he is healthy. Be that as it may, it bears stating that the accused person is standing trial and the need for her to appear before the Court when she is required to do so. The essence of the

requirement to deposit her passport as a condition of the bail was to ensure that the accused person appears to stand trial. It was meant to ensure that the accused person did not travel outside the country before the conclusion of the trial. This is because, save in few exceptional circumstances, the Courts in Ghana exercise jurisdiction within the territorial boundaries of Ghana. The jurisdiction of the Court does not extend beyond the boundaries of Ghana. As such, it will be difficult, if not impossible for the Court to exercise its powers to compel the accused person to return to Ghana to stand trial should she be allowed to leave the country and she decides when to return. Granting the application to release the passport to the accused person would be sanctioning her discharge of the charge leveled against her. This is because as has been admitted by counsel for the accused person, she intends to travel to the United Kingdom to seek medical attention for her son. And as I have stated above, how does the Court ensure her return to Ghana to stand trial? I cannot think of any way.

Besides, I do not think that the accused person has been unable to receive medical treatment for her son in any health facility in the country as her exhibits indicate that she has been able to take her son to some of the health facilities in the country. I have not been convinced by the exhibits LB 'A' and LB 'B' that there is a medical report authored by a relevant medical officer advising that the son of the accused person can only be attended to medically, in the United Kingdom and that no hospital or health facility in Ghana is resourced enough to offer care to him. I do not subscribe to that argument. I think that there are a plethora of well-resourced medical facilities in the country with trained specialists to match where the accused person can receive medical care.

Furthermore, there is not sufficient facts and evidence before the Court as to the reasons and basis for the inclusion of the name of the accused person in the Block List at the Kotoka International Airport. Therefore this Court is unable to grant the said prayer for the name of the accused person to be removed from the Block List at the Kotoka International Airport.

For the reasons given above, I am not inclined to grant the instant application. Accordingly I do hereby dismiss the motion.

H/H AKOSUA A. ADJEPONG (MRS)
(CIRCUIT COURT JUDGE)