

# Court rules on bail for Okondo, Fayose's aide, Olatunji Feb. 26

From Odunayo Ogunmola, Ado-Ekiti

**A**N Ado-Ekiti High Court has reserved its ruling on the application for bail being sought for the Personal Assistant to the former governor of Ekiti State, Mr Goke Olatunji and a Peoples Democratic Party (PDP) Board of Trustees member, Chief Dayo Okondo till February 26.

This was consequent upon arguments by the lead lawyer, Dr Alex Izinyon (SAN) and the lead prosecution counsel, Mr Lateef Fagbemi (SAN).

Mr Justice Ayodeji Simon Daramola, having listened to both counsel for over three hours, deferred ruling till February 26.

The accused persons and six others (who have no legal representation) are facing trial before the court over their alleged roles in the August 14, 2006 assassination of a PDP governorship aspirant, Dr Ayodeji Daramola at his Ijan-Ekiti country home in Gbonyin Local Government Area of the state.

Izinyon in the application for bail filed on November 20 argued that it was brought pursuant to Section 36 (5) of the 1999 Constitution, saying both summons filed by him are asking for an order admitting the applicants to bail pending the hearing and determination of the charges.

He told the court that he had filed on behalf of the first applicant (Olatunji) summons supported by a 14-paragraph affidavit and another affidavit sworn to on November 21 with an attachment of Exhibit I which was a medical report. Izinyon also informed the court that he had filed another 12-paragraph deposed to on January 24 with one annexure marked as Exhibit I A.

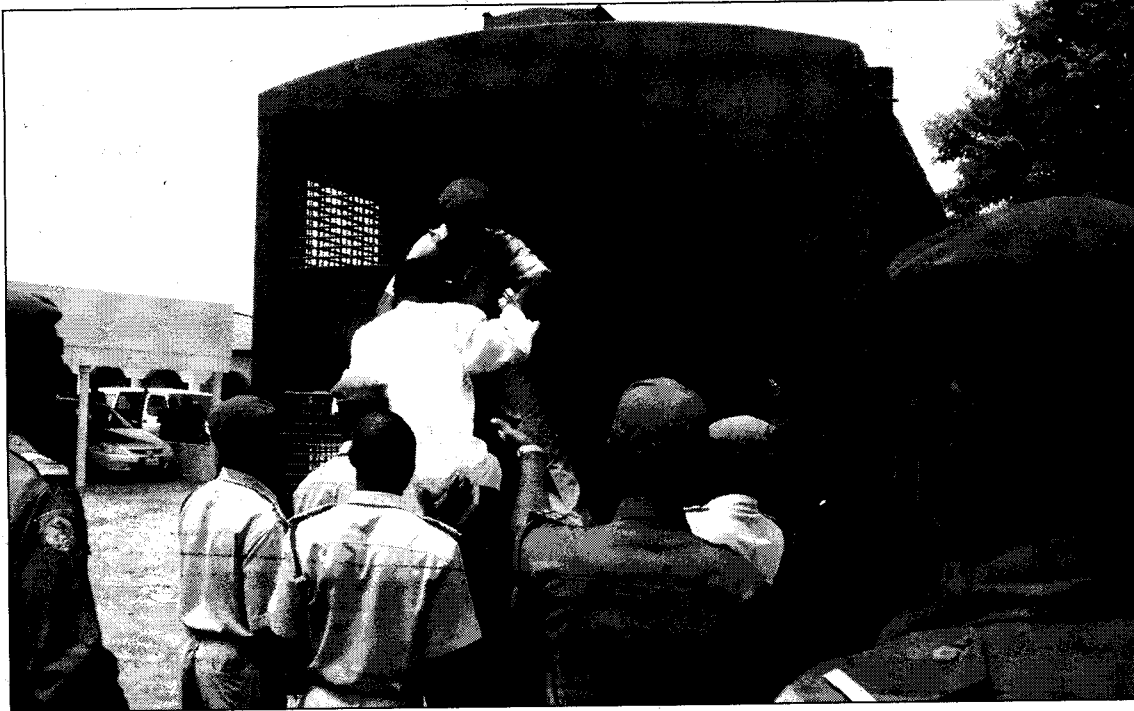
Izinyon said that the applicants have placed before the court sufficient materials, urging the judge to exercise his discretion in the favour of his client. He said the judge has "omnipotent powers" on the issue of discretion in granting bail.

His words: "I submit that on the issue of discretion, no authority is binding on Your Lordship because each authority is different from the other. I submit that in exercising the discretion judicially and judiciously, the fact can go alone or be a combination of facts, a single fact or combination of facts, they are not exhaustive.

"The principle of granting bail, I will restrict myself to principles surrounding capital charges, when it concerns capital offence, the principles are narrowed down," he said.

Izinyon referred to *Omodara v the State* (2004) 1 NWLR (Pt 853) Pg 80, *Ikhazuagbe v the Commissioner of Police* (2004) 7 NWLR (Pt 872) Pg 346, *Atiku v the State* (2002) 4 NWLR (Pt 757) Pg 265, saying the accused know nothing about the charges maintaining that the prosecution's case is weak based on the evidences before the court. He said this should sway the judge in granting the bail.

The Senior Advocate predicated his



• Okondo being assisted into the Black Maria... yesterday.

PHOTO: TOYIN ANISULOWO

position on the weakness noticed in the proof of evidence before the court on the witness of the third accused person (Taiwo Olanipekun) linking the applicants (Olatunji and Okondo) to the offence, saying there was no other evidence.

He referred to the voluntary statement of the third accused person admitting an armed robbery but flawed the second leg in which he (the third accused) said the applicants invited him to commit the crime. He submitted that in view of this, the applicants should not be allowed to remain in detention in the light of what he called "weak evidences" before the court.

While pooh-poohing the alleged involvement of the second accused person in the commission of the crime, Izinyon said his jeep that was alleged to be used to carry out the crime was still undergoing repairs when the crime was committed, saying a thick pall of doubt hangs ominously over the evidence brought against the accused.

He cited *Ani v the State* (2002) 1 NWLR (Pt 747) Pg 217 paragraph f, *Musa v the Commissioner of Police* (2004) 9 NWLR (Pt 877) Pg 483 and *Oshinaiya v the Commissioner of Police* (2004) 17 NWLR (Pt 901) Pg 1.

The authorities, according to Izinyon buttress the fact that once there is a doubt on the evidence, it changes the cogency of the evidence of the proof. He added that the accused had been in custody for over four months and presumption of innocence is still in their favour submitting further that detention of persons had flawed the nation's Criminal Jurisprudence in which accused persons are unduly incarcerated citing *Ozougwu v the State* (2006) 9 NWLR (Pt 985) Pg 240.

Arguing further on *Ani v the State*

Izinyon said: "The materials before the court are sufficient, they have no criminal record and they will not jump bail because they will present themselves to the police every minute if need be. His Lordship can exercise his discretion in this matter".

But Fagbemi admitted that all the authorities cited by Izinyon were correct but said that no one has the authority to grant same relief in another matter, adding that the principles enunciated in those cases would be binding on the trial judge.

"His Lordship must be guided by certain approved guidelines. I submit that the application be refused because we have filed a counter-affidavit each in response to the two applications, they are dated January 24 and filed the same day," he added.

While speaking on the strength of the prosecution, Fagbemi declared that his learned friend had not made any point to warrant the granting of bail to the accused persons, saying it was not the position of the judge to determine whether the position of the prosecution was weak.

"One weakness in a matter does not mean that the court can rely on it, the only one cited by the defence was that of the third accused," Fagbemi noted.

On the Exhibits 1 and 1A, which bordered on the reported ill-health of the accused, Fagbemi argued that the exhibits did not assist the accused. He further said that the personality of the doctor, who signed on behalf of the Chief Medical Director of the State Specialist Hospital from where the medical reports were obtained, was shrouded in secrecy.

"He must state that he is an expert in that field of medicine or that he was the one who treated the applicant. Nobody can bamboozle the court with high-sounding medical jargons," Fagbemi said.

Citing *Abacha v the State* (2002) 5 NWLR (Pt 761) Pg 638, Fagbemi submitted that granting bail on medical grounds must be based on cogent reasons, saying evidence on ground showed that the accused are not being made to undergo stress in custody hence nothing stops them from coming to the court to answer charges from the custody.

According to the Ibadan-based lawyer, it was not the present case that triggered hypertension said to be suffered by the second accused person since 2001, saying even if the accused stays at home he would be visiting his physician from home, hence nothing stops him from coming to the court from custody and the prison also has a clinic where they could be treated.

Fagbemi stated that if the bail is granted on the grounds of ill-health at every charge, there would be nobody in custody. On the issue of presumption of innocence, he argued that there is the need to restrict the movement of the accused citing Sections 41 and 45 of the 1999 Constitution.

He noted that members of the gang that killed Daramola are still on the run, saying these are "debilitating" factors weighing against the exercise of discretion in granting bail to the accused, urging His Lordship not to grant the bail.

"The authorities cited by my learned friend will not subscribe this time around. Therefore, I want His Lordship to resist the temptation of granting this bail bearing in mind that there is an application which has not been granted," Fagbemi added.

Mr Justice Daramola after hearing from both counsel reserved ruling till February 26. The accused were whisked away to the prison custody in a Black Maria marked NPS 167 A01 at about 1.10 pm amidst tight security.

## Gunmen abduct Chinese oil workers

GUNMEN abducted two or three Chinese oil workers in Bayelsa on Thursday, bringing to 32 the number of foreigners being held by armed groups in the oil-producing Niger Delta. The gunmen who seized the employees of Chinese National Petroleum Company (CNPC) also looted the company's office in the market town of Sagbama, police said.

"There was an attack on a Chinese company, CNPC, this morning and two or three Chinese workers were abducted," Bayelsa state police commissioner Hafiz Ringim said. "The company's accounts office was also burgled, but I can't confirm how much money was taken away by the attackers," Ringim said by telephone from the state capital Yenagoa.

Another officer said one of the attackers was killed in a shoot-out with security forces and others were injured.

The Chinese embassy in Nigeria declined to comment.

Militants and criminals seeking ransom have mounted a series of attacks and kidnappings against foreign workers in the Niger Delta, a vast wetlands region which has all Nigeria's oil.

Thousands of foreign oil workers have left the Niger Delta in the past year as attacks and kidnappings have multiplied, and some industry executives see the situation descending further into anarchy as landmark Nigerian elections approach in April.

Energy-hungry China has moved aggressively into Nigeria's oil heartland over the past year, despite the growing violence.

State-owned CNPC bought

## Induction for first Cathedral Dean

THE Rt. Rev. Adebayo Akinde, Bishop of the Diocese of Lagos Mainland (Anglican Communion) will induct Venerable Luyi Akinwande as the pioneer dean of the Cathedral Church of St. Jude, Ebute-Meta tomorrow.

As dean, he will serve as Vicar of the Cathedral Church of St. Jude, keeping custody of its properties and vestments. Ven. Akinwande moves from St. Paul's Idi Oro, where he had served as vicar and archdeacon since 1999.

A pharmacist, Ven. Akinwande, 60, was a pharmacist at the General Hospital, Ikeja, Sales Manager, later Branch Manager, J. L. Morison Son & Jones Nig. Ltd, marketing manager, Smith Kline & French Laboratories Ltd.

He joined the ministry in 1986 and has served as vicar in St. Paul's Anglican Church, Kirikiri, 1986-91; All Saints' Church, Ikosi-Ketu, 1991-96; Bishop Adelakun Howells Memorial Church, Surulere, 1996-99.



• Ven. Akinwande

## Police kill two suspected bank robbers

**T**HE days of unchallenged raids on banks appear over for armed robbers in Lagos as police yesterday killed two armed robbery suspects who besieged a first generation bank in Apapa.

The Nation gathered that on receiving news of the robbery attack, state Police Commissioner, Mr Emmanuel Adebayo directed that one of the four recently acquired Armoured Personnel Carriers (APCs) be deployed against the bandits.

The APCs are bullet-proof. The police successfully foiled the raid on the bank located at Kofo Abayomi Street less than an hour after the 20-man gang of hoodlums took over the place. It was a happy moment for the

state command which had lost over 20 men to robbers last year in the absence of the APCs.

In a particular robbery on four banks near the Ladipo Auto spare parts market, Mushin, the 50-man gang of robbers were seen by residents dancing in the streets after successfully raiding the banks which they took over from 12.30a.m. to 5.30a.m. Police gave them a wide berth.

Following distress calls from residents in Kofo Abayomi Street, the Divisional Police Officer (DPO), Apapa, Mr Mohammed, a Chief Superintendent (CSP), mobilised his men.

A police source told The Nation that the DPO, before leaving the

station, had informed Mr Adebayo of the raid.

Adebayo promptly deployed the APC with a detachment of mobile policemen to the scene.

With the aid of the APC, the policemen, smashed two of the bandits' operational buses, forcing them to abandon the operation.

Subsequently, there was an exchange of gun fire as the robbers made to escape, leading to the killing of two of them.

Recovered from the scene were 500 expended bullets, four industrial gas cylinders, eight fully loaded magazines, and 50 live ammunition. No police man lost his life or even sustained injury.

The command's spokesman, Mr Olubode Ojajuni, who confirmed the raid, said investigation had

already begun.

The mood at Apapa police division and the police command from where the APC was mobilised was that of celebration.

In most of the police operations against armed robbers last year, its personnel were killed, while the armed robbers spent hours operating unchallenged.

The Nation reported at the time that the command was handicapped as all the APCs had been moved to Bauchi State for repairs.

However, last month, the Inspector-General of Police (IGP), Mr Sunday Ehindero, deployed four brand new APCs to Lagos State command for effective operation, a move which paid off yesterday.