

Present

Mr. Justice Bhisimadev Chakraborty.

-And-

Mr. Justice A.K.M. Zahirul Huq

Criminal Misc. Case No.19665 of 2024.

Md. Abdul Shahid

.....Accused-petitioner.

-Versus-

The State

.....Opposite party.

Mr. Shah Abdul Hatem, Advocate.

.....For the accused-petitioner.

Mr. Md. Humayun Kabir Manju, Deputy Attorney General.

.....For the State.

Heard and Judgment on 29.08.2024.

Mr. A.K.M. Zahirul Huq, J:

This Rule was issued under section 498 of the Code of Criminal Procedure calling upon the opposite-party to show cause as to why the accused-petitioner should not be enlarged on bail in Sessions Case No. 118 of 2024 arising out of Madhabpur Police Station Case No.18 dated 10.01.2023 corresponding to G.R.No.18 of 2023 (Madhab) under sections 143/447/341/302/114/506 and 109 of the Penal Code pending in the Court of learned Sessions Judge, Habigonj and/or such other or further order or orders passed as to this Court may seem fit and proper.

Mr. Shah Abdul Hatem, learned Advocate for the petitioner taking us through the first information report, Post mortem examination report and other materials on record and submits

that although in the first information report specific allegation against the accused-petitioner of inflicting with a ramdao blow on the hand of the deceased was brought but doctor failed to ascertain the cause of death as per post mortem report. He submits that the petitioner is in jail more than 7 months there is no prospect of early disposal of the case and as such he is entitle to the privilege of bail.

Mr. Md. Humayun Kabir Manju, learned Deputy Attorney General, on the other hand opposes the rule. He submits that the overt act as attributed in the first information report has not been corroborated by the post mortem examination report. The cause of death is found autopsy report for the reason of dealing ramdao blow on the hand of the deceased. The offence is heinous in nature and he is not entitled to enlarge on bail in the case.

We have heard the learned Advocates for the accused-petitioner and the learned Deputy Attorney General and gone through the materials on record. It appears that according to the first information report there is specific allegation against the petitioner of dealing a ramdao blow on the head of the deceased. In the post mortem report although there is an ambiguity with in the first information report but doctor failed to pass any opinion as to the cause of death of the deceased. It is found that, the petitioner has been in jail for more than

7(seven) and it is uncertain as to when trial of the case will be commenced and concluded.

Considering the dissimilarity in the first information report and post mortem report about the cause of death of the deceased, we are inclined to enlarge the accused-petitioner on bail.

In the result, the Rule is made absolute.

The accused-petitioner **Md. Abdul Shahid** is hereby enlarged on bail on furnishing adequate bail bond to the satisfaction of the learned Sessions Judge, Habiganj before whom the case is pending.

In case of misuse the privilege of bail, the Court concerned is at liberty to deal with the question of bail of the accused-petitioner in accordance with law.

Communicate this order at once.

Mr. Bishmadev Chakraborty,J:

I agree.

Mr., Advocate.

.....For the accused **petitioner**.

Mr. Sheikh Serajul Islam Seraj, D.A.G. with
Mrs. Ambia Bulbul Reza, D.A.G. with
Mr. Md. Ruhul Amin, A.A.G. with
Mr. Mohammad Humayun Kabir, A.A.G. with
Mrs. Syeda Jahida Sultana(Ratna),A.A.G

....For the State.

The Rule is made absolute vide judgment in separate sheets.

B.O.(Mr.Md.Rais uddin and Mr.Sashankar Shekhar Sarkar,JJ)