

Criminal Appeal No. 6452 of 2021

31.01.2024

Present :

Mr. Justice Md. Rezaul Haque

And

Mr. Justice Md. Khairul Alam

Mr. S.M. Mahbubul Islam, Advocate

.....For the convict-appellant-petitioner

Ms. Yesmin Begum Bithi, DAG

...For the State

This is an application for bail in a pending appeal.

The convict-appellant has been convicted under sections 302/34 of the Penal Code and sentenced to suffer rigorous imprisonment for life and also to pay a fine of Tk. 20,000/- (twenty thousand) in default to suffer rigorous imprisonment for 06 (six) months more.

Mr. S.M. Mahbubul Islam, learned Advocate appearing for the convict appellant-petitioner has submitted that during trial the appellant was on bail and he never misused the privilege of bail. On the date of argument i.e. on 15.09.2021, the appellant was sent to jail and since then he has been languishing in jail. Learned Advocate has further submitted that F.I.R was lodged after two days of the alleged occurrence without the specific allegation of causing any overt act upon the deceased; the eyewitnesses cited in the

F.I.R were not examined; the subsequent allegation of causing any overt act upon the deceased is an afterthought and subsequent embellishment of the prosecution story and therefore the appellant has every chance of acquittal and it is uncertain as to when the appeal will be heard. Accordingly, he has prayed for enlarging the appellant on bail.

Ms. Yesmin Begum Bithi, the learned Deputy Attorney General for the respondent has opposed the prayer for bail of the appellant.

We have considered the submissions of both sides, perused the evidence and other materials on record.

Admittedly, this is an appeal of 2021. The appellant has been sentenced to suffer rigorous imprisonment for life along with a fine. It has been alleged that F.I.R was lodged two days after the alleged occurrence without the specific allegation of causing any overt act upon the deceased; the eyewitnesses cited in the F.I.R were not examined; the subsequent allegation of causing any overt act upon the deceased is an afterthought and subsequent embellishment of the prosecution story and therefore the appellant has every

chance of acquittal and it is uncertain as to when the appeal will be heard. In that view of the matter, the prayer for bail of the appellant is allowed.

Let the Convict-appellant **Mizan Mir, son of Mohammad Mir**, is granted bail till disposal of the appeal, on furnishing bail bond subject to the satisfaction of the learned Judge (District and Sessions Judge), Druto Bichar Tribunal No.3, Dhaka.