District:Bogura

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CRIMINAL RIVISIONAL JURISDICTION)

Criminal Revision No…….of 2024

An application under Section 439 read with Section 435 of the Code of Criminal Procedure.

-And-

IN THE MATTER OF;

Md. Lutfor Rahman

..…. Convict-petitioner.

-Versus-

The State and another

…..Opposite-parties.

Mr. Mohammad Ikbal Hosen, Advocate,

….. For the Convict-petitioner.

Mr. Md. Saiefuddin Khaled, D.A.G with
Mr. Md. Asaduzzaman, A.A.G with
Mrs. Afifa Begum Swapna, A.A.G and
Mr. Sarwar Akhtar Masud, A.A.G,

..…. For the State-opposite party.

Present:

Mr. Justice Md. Nazrul Islam Talukder

And

Mr. Justice Kazi Ebadoth Hossain

Order dated: the 13th day of March, 2024.

This is an application under Section 439 read with Section 435 of the Code of Criminal Procedure filed by the convict-petitioner challenging the order dated 30.01.2024 passed by the learned Joint Sessions Judge, 1st Court, Bogura rejecting the prayer for bail of the convict-petitioner under Section 426(2A) of the Code of Criminal Procedure for preparing appeal arising out of judgment and order of conviction and sentence dated 14.09.2023 passed by the

learned Joint Sessions Judge, 1st Court, Bogura in Sessions Case No. 781 of 2023 arising out of C.R. Case No. 15C of 2023 (Nandigram) convicting the petitioner under Section 138 of the Negotiable Instruments Act, 1881 and sentencing him to suffer rigorous imprisonment for 1 (one) year and also pay a fine of Tk. 20,00,000/- (twenty lac taka) only.

The learned Advocate for the petitioner, submits that the petitioner was the sole accused in the above case under Section 138 of the Negotiable Instruments Act, 1881 and on conclusion of trial, he was convicted and sentenced; the petitioner was arrested in pursuance of warrant of arrest on 05.11.2023 and the petitioner submitted an application for bail under Section 426(2A) of the Code of Criminal Procedure for preferring an appeal, but the learned Judge of the Trial Court has most illegally rejected the above application for bail.

The learned Advocate further submits that since the petitioner is required to deposit a huge amount of money to prefer an appeal, the ends of justice will be met if he is granted an ad-interim bail for 02 (two) months to enable him to prefer an appeal.

Mr. Md. Saiefuddin Khaled, the learned Deputy Attorney-General concedes that Section 426(2A) of the Code of Criminal Procedure provides for granting of bail to

a convict who has been sentenced for a term not exceeding 1 (one) year for preferring an appeal.

We have considered the submissions made by the respective parties and examined all the materials on record.

As mentioned above, the petitioner, after conclusion of trial, has been convicted in the above case under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to suffer simple imprisonment for 01 (one) year. The provision of Section 426(2A) of the Code of Criminal Procedure provides for granting bail for a limited period to enable him to prefer an appeal against the above judgment and order of conviction and sentence.

On consideration of above facts and circumstances of the case and materials on record, we are of the view that the convict-petitioner may be enlarged on bail for a period of 2 (two) months so that he can prefer an appeal.

Accordingly, let the convict-petitioner be enlarged on bail for a period of 2 (two) months from date subject to furnishing bail bond together with his passport if any to the satisfaction of the learned Joint Sessions Judge, 1st Court, Bogura.

The above period of bail for 2 (two) months shall start to run from the date of acceptance of bail bond by the learned Joint Sessions Judge, 1st Court, Bogura.

But if the petitioner fails to prefer an appeal within the above period following the provisions of law, the learned judge of the concerned court below shall issue a fresh warrant of arrest against the petitioner in accordance with law.

The convict-petitioner is directed not to leave the country without the permission of the learned judge of the concerned court below.

The learned Advocate for the convict-petitioner is also directed to file affidavit-in-compliance before this court through the Registrar, Bangladesh Supreme Court, High Court Division after expiry of the period of bail positively and without fail.

If the convict-petitioner fails to comply with the terms and conditions of the order of this court, a contempt proceeding will be started against the petitioner.

The complainant is also directed to inform this court about the compliance/non-compliance of the order of this court.

If the petitioner furnishes any false information with regard to passport and/or any other matter, he will face the consequence in accordance with law.

With the above direction, this application is disposed of.

Let a copy of this order be sent to the learned judge of the concerned court below and the IGP, Police Headquarters, at once.

Md. Nazrul Islam Talukder, J.
And

Kazi Ebadoth Hossain, J.