

Criminal Appeal No. 12630 of 2023

31.01.2024

Present :

Mr. Justice Md. Rezaul Haque

And

Mr. Justice Md. Khairul Alam

Mr. Ujjal Paul, Advocate

.....For the appellant-petitioner

Ms. Yesmin Begum Bithi, DAG

...For the State

This is an application for bail of convict appellant -Kafil in 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 01 (one) year more.

Mr. Ujjal Paul, the learned Advocate appearing on behalf of the appellant has submitted that during trial the appellant was on bail and he never misused the privilege of bail. On the date of judgment i.e. on 16.11.2023 the appellant was sent to jail and since then he has been languishing in jail. Learned Advocate has further submitted that the conviction of the appellant is solely based on a confessional statement of co-accused made under section 164 of the Code of Criminal

Procedure and therefore, he has every chance of acquittal. The learned Advocate has submitted that the appellant is an aged man of 70 years and is suffering from various old age complications like high blood pressure, Parkinson's and dementia 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 2023. The appellant has been sentenced to suffer rigorous imprisonment for life along with a fine. It has been alleged that the appellant has been convicted solely on the basis of a confessional statement of co-accused made under section 164 of the Code of Criminal Procedure and therefore, he has every chance of acquittal. The appellant is an aged man of 70 years and has been suffering from various old age complications like high blood

pressure, Parkinson's and dementia. From the record, it appears that on 11.01.2024 this Court directed the Deputy Jailer of the Manikganj Central Jail, Manikganj to furnish a medical report of the appellant. According to that order, the jail authority furnished a report stating that the appellant is an aged man of 70 years and is suffering from various old age complications like high blood pressure, Parkinson's and dementia and there is no likelihood of hearing the appeal.

In that view of the matter, the prayer for bail of the appellant is allowed.

Let the Convict-appellant Kafil, son of late Saheb Ali, is granted bail till disposal of the appeal, on furnishing bail bond subject to the satisfaction of the Chief Judicial Magistrate, Manikgonj.