

In The Supreme Court of Bangladesh  
High Court Division  
(Criminal Revisional Jurisdiction)

**PRESENT:**

**MR. JUSTICE ABU TAHER MD. SAIFUR RAHMAN  
AND  
MR. JUSTICE KHANDAKER DILIRUZZAMAN**

**CRIMINAL REVISION NO. 4292 of 2022**

Md. Ismail Miah.....Informant petitioner

**-Versus-**

The State and others.....Opposite parties

Mr. Sakib Mabud, Advocate

.....For the informant petitioner

Mr. Imran Ahmed Bhuiyan, DAG with

Mr. Mehadi Hasan (Milon), AAG and

Ms. Aleya Khandker, AAG

.....For the state

**Heard and judgment on: The 1<sup>st</sup> of August, 2023**

**ABU TAHER MD. SAIFUR RAHMAN, J.**

This Rule was issued on an application filed by the accused petitioner under section 439 read with section 435 of the Code of Criminal Procedure calling upon the opposite parties to show cause as to why the order dated 08.05.2022, 09.05.2022 and 17.05.2022 passed by the learned Sessions Judge, Cumilla in Criminal Miscellaneous Case No. 2183 of 2022, 2211 of 2022 and 2413 of 2022, arising out of Daudkandi Model Police Station Case No. 41 dated 31.07.2020, corresponding to Daudkandi G.R. No. 181 of 2020 under sections 447/448/323/302/34 of the Penal Code should not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.

For disposal of the Rule, the relevant facts may briefly be stated as follows:

That the petitioner as informant lodged an FIR with the local police station alleging inter alia that due to previous enmity one Abul Kashem, the brother of the informant earlier filed one police case (Police Station Case No. 06 dated 16.05.2020) against the accused petitioner and others under sections 143 /341 /448 /323 /380 /427 /506 of the Penal Code. After released from jail, the FIR named accuseds became very furious. On the date of occurrence dated 30.07.2020, the FIR named the accused came to the house of the informant along with deadly weapons and caused injury to the informant and his brother deceased victim Abul Kalam. Thereafter, the victim Abul Kalam was taken into the hospital for treatment wherein he died on 31.07.2020 at night around 3.35 p.m. Hence, the aforesaid case was filed against the FIR named accused No. 1 and 15 along with others under sections 143/447/448/326/302/34 of the Penal Code. Thereafter, the accused opposite party appeared before the Court below and obtained bail till to submitted the police report. After submitting the police report, they were taken into the jail custody. Later on, the accused opposite parties filed the aforesaid Criminal Miscellaneous cases before the District Sessions Judge and prayed for bail which was allowed by the impugned orders.

Being aggrieved, the informant petitioner filed this application before this Court under section 439 read with section 435 of the Code of Criminal Procedure and obtained the instant Rule and stay.

Mr. Sakib Mabud, the learned Advocate for the accused petitioner submits that as per FIR and charge sheet there is a specific overt act against the accused opposite parties. Moreover, there is a confessional statement made by one co-accused named Salim Miah wherein it has been mentioned as to how the victim was killed and by whom but the learned Sessions Judge without considering the materials on record passed the impugned order and thereby granted bail to the accused opposite parties which is liable to be set aside.

No one appears for the opposite parties to oppose the Rule.

Heard the submissions of the learned Advocate for the accused petitioner and perused the materials on record thoroughly.

On perusal of the FIR along with other materials on record it transpires that undoubtedly it is very brutal murder case. However, the nature of the allegation as against the accused opposite parties (FIR named accused No. 7, 9 to 12) are appears to be a lump allegation. In considering the nature of the allegation, the learned Sessions Judge rightly passed

the impugned order which does not call for any interference by this Court under the jurisdiction of section 439 of the Code of Criminal Procedure.

Under the given facts and circumstances of the case and the reasons as stated above, we do not find any substance of this Rule.

As a result, the Rule is discharged.

Communicate this judgment and order at once.

**Khandaker Diliruzzaman, J:**

I agree