

Criminal Appeal No. 8644 of 2022

07.12.2023

Mr. Zakir Hossain Bhuiyan, Advocate

...for the appellant.

Mrs. Yesmin Begum Bithi, D.A.G.

...for the State.

This is an application for bail in a pending appeal.

The accused appellant is found guilty under section 302,34 of the Penal Code and sentencing them to suffer imprisonment for life and pay a fine of Tk. 10,000/-, in default, to suffer rigorous imprisonment for 6 months more.

Mr. Zakir Hossain Bhuiyan, the learned Advocate appearing on behalf of the Convict appellant has submitted that the appellant was on bail at the trial stage and he never misused the privilege of bail. Learned Advocate has further submitted that the appellant petitioner has been taken into Jail hajat on 14.08.2022 and since then he has been languishing in Jail. Learned Advocate has further submitted that it is evident from the materials on the record that the convict appellant has been convicted on the basis of suspicion, mere suspicion whatever strong might be can

never be any basis of conviction as none of the prosecution witnesses supported the prosecution case against the convict appellant. Learned Advocate has further submitted that co-accused of this case has already been enlarged on bail by this Division and the appellant is on the better footing. Learned Advocate has earnestly submitted that the conviction and sentence may not be found tenable at the time of hearing of the appeal.

Mrs. Yesmin Begum Bithi, learned Deputy Attorney General for the respondent opposes the prayer for bail.

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

Admittedly this is an appeal of 2022. The learned Advocate has submitted that the conviction and sentence may not be found tenable at the time of hearing of the appeal. It appears from the record the convict appellant was present before the trial court at the time of trial and he never misused the privilege of bail and he was very much

present on the date of judgment and on that date he was taken to jail. It also appears that there is no certainty as to when the appeal will be heard. In that view of the matter the prayer for bail is allowed.

Let the convict appellant Rafizul Mondal son of Khalil Mondal, be enlarged on bail till disposal of the appeal after furnishing bail bond to the satisfaction of the Chief Judicial Magistrate, Rajbari.