

Criminal Appeal No. 2769 of 2023

11.01.2024

Mr. Nusrat Jahan,

...for the appellant.

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

Ms. Helena Begum (China), A.A.G

Mr. Syed Bashir Hossain Chowdhury, A.A.G

.....For the State.

This is an application for bail in a pending appeal.

The accused appellant has been convicted under section 396 of the Penal Code and sentenced to suffer rigorous imprisonment for life and to a pay fine to Tk. 10,000/- , in default, to suffer imprisonment for further period of six months more.

Mr. Md. Jalal Uddin, the learned Advocate appearing on behalf of the convict appellant has submitted that the appellant was on bail at the trial stage though he was a suspected accused and he never misused the privilege of bail which was granted earlier at the time of trial. Learned Advocate has further submitted that the appellant has been taken into Jail hayat on the date of judgment i.e. on 29.08.2022 and since then he has been languishing in jail custody. Learned Advocate has further submitted that out of

17 witnesses only P.W-8 has identified the convict Petitioner but he was known to the petitioner as a neighbor as such there is every chance of acquittal in this case. Learned Advocate has earnestly submitted that the conviction and sentence may not be found tenable at the time of hearing of the appeal as neither there is any confessional statement of this petitioner or any independent witness deposed against this petitioner, accordingly, he has prayed for bail of this appellant.

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 2023. The learned Advocate has submitted that the conviction and sentence may not be found tenable at the time of hearing of the appeal as there is no specific evidence against this appellant, moreover, it appears to us that the appellant petitioner is neither FIR named accused nor he has given any statement which has recorded under section 164 of the Code of criminal

procedure, furthermore, there is no certainty as to when the appeal will be heard though the appeal is ready for hearing. It is evident from record that the appellant has been languished in jail hajat since examination under section 342 of the Code of Criminal. In that view of the matter the prayer for bail is allowed.

Let the convict appellant Md. Jahangir Alam alias Alam son of late Abdur Rouf, be enlarged on bail till disposal of the appeal after furnishing bail bond to the satisfaction of the Chief Judicial Magistrate, Sylhet.