

Criminal Appeal No. 3361 of 2023

14.12.2023

Mr. Mahbuba Chowdhury

...for the appellant.

Mrs. Yesmin Begum Bithi, D.A.G

..for the State.

This is an application for bail in a pending appeal.

The convict appellant is found guilty under Table 14 (Ga) of section 36 (1) of the Madak Drabya Niyantaran Ain, 2018, and sentencing them to suffer rigorous imprisonment for 10 years and to a pay fine to Tk. 20,000/- , in default, to suffer rigorous imprisonment for 3 months more.

Mrs. Mahbuba Chowdhury, the learned Advocate appearing on behalf of the convict appellant has submitted that after pronouncement of judgment the convict appellant was arrested by the police on 22.12.2022 and since then he has been languishing in jail custody. Learned Advocate has further submitted that no incriminating article was recovered from the absolute control and possession of the convict appellant and there is no iota of evidence against the convict appellant, moreover, seizure list witnesses did not support the prosecution case and as such the impugned judgment and order of conviction has no basis at all. Learned Advocate has further submitted that the learned Judge of the trial court convicted the appellant on the basis of the evidences of the police personnel but they are very much interested witnesses as such the impugned judgment and order of conviction and sentence is not sustainable in the eye of law. Learned Advocate has further submitted the conviction and sentence may not be found tenable at the time of hearing of the

appeal. Learned Advocate has earnestly submitted that there is no certainty as to when the appeal will be heard accordingly, he has prayed for bail of the appellant.

Mrs. Yesmin Begum Bithi, the learned Deputy Attorney General for the State 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 a appeal of 2023. The appellant has been sentenced to suffer rigorous imprisonment for a period of 10 years along with fine and the appellant has already suffered about one year. The learned Advocate has submitted that the conviction and sentence may not be found tenable at the time of hearing of the appeal. It is evident from the order sheet that the appeal is ready for hearing but there is no certainty as to when the appeal will be heard as there are old cases pending for hearing. In that view of the matter the prayer for bail is allowed.

Let the convict-appellant Md. Samrat Hossain son of late Nantu Pramanik and Toliar Khatun, be enlarged on bail till disposal of the appeal after furnishing bail bond to the satisfaction of the Chief Judicial Magistrate, Dhaka.

