

Criminal Appeal No. 3963 of 2023

31.01.2024

Present :

Mr. Justice Md. Rezaul Haque

And

Mr. Justice Md. Khairul Alam

Mr. Mohammad Abdul Jalil, Advocate

.....For the convict-appellant-petitioner

Ms. Yesmin Begum Bithi, DAG

...For the State

This is an application for bail in a pending appeal.

The convict-appellant has been convicted under 3(Kha) appended to section 19(1) of the Madok Drabbya Niyatron Ain, 1990 and sentenced to suffer rigorous imprisonment for life with a fine of Tk. 10,000/- in default to suffer rigorous imprisonment for 06 (six) months more.

Mr. Mohammad Abdul Jalil, learned Advocate appearing for the convict appellant-petitioner has submitted that the convict appellant was arrested on 31.08.2017 in connection with this case and he was enlarged on bail on 14.06.2018. During the bail, he never misused the privilege of bail. At the time of the pronouncement of judgment i.e. on 23.11.2022, the appellant was present before the Court and was sent to jail and since then he has been languishing in jail and until now he has suffered 2 years and 1 month in jail. Learned Advocate has further submitted that the prosecution

failed to adduce any independent and impartial witness in support of the prosecution story i.e. as to the recovery of 800 battles of phensedyl from the possession of the appellant and therefore, there is every chance of acquittal of the appellant, but though the appeal is ready for hearing there is no chance of early hearing. 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 with a fine. It has been alleged that no independent and impartial witness supported the prosecution story i.e. the recovery of 800 battles of phensedyl from the possession of the appellant and therefore, there is every chance of acquittal of the appellant. During trial, the appellant was on bail and he never misused the privilege of bail. Though the appeal is ready for

hearing there is no chance of early hearing. In that view of the matter, the prayer for bail of the appellant is allowed.

Let the Convict-appellant **Md. Moklesur Rahman, son of Md. Akter Hossain**, be enlarged on bail till disposal of the appeal after furnishing bail bond to the satisfaction of the learned Senior Sessions Judge, Kishoreganj.

Kashem/B.O