

Present:

**Mr. Justice Zafar Ahmed
And
Mr. Justice Sardar Md. Rashed Jahangir**

Criminal Miscellaneous Case No. 28051 of 2023

Md. Aslam
...Accused- petitioner.
-Versus-

The State
...Opposite- party.

Mr. Md. Oziullah, with
Ms. Buddrun Nahar, Advocates
...For the petitioner

Mr. Nawroz M R Chowdhury, DAG with
Mr. Md. Azizul Hoque,
Ms. Tahmina Polly, and
Mr. Prince-Al-Masud, AAGs.
.....For the State.

Heard on 25.04.2024.
Judgment on: 12.06.2024.

Zafar Ahmed, J.

In this application for bail filed under Section 498 of the Code of Criminal Procedure, Rule was issued on 08.05.2023 calling upon the opposite party to show cause as to why the accused-petitioner should not be enlarged on bail in Banani Police Station Case No. 18 dated 10.03.2023 corresponding to G.R. No. 89 of 2023 under Sections 11(Kha) read with Section

30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000, now pending in the Court of Chief Metropolitan Magistrate, Dhaka.

At the time of issuance of the Rule, this Court granted ad-interim bail to the accused-petitioner for a period of 01 (one) month subject to compliance of the directions mentioned therein.

Challenging the order dated 08.05.2023 granting ad-interim bail to the accused-petitioner, the State preferred Criminal Miscellaneous Petition No. 981 of 2023 before the Appellate Division and obtained an order of stay from the Hon'ble Judge-in-Chamber on 10.05.2023. Thereafter, the State filed Criminal Petition For Leave to Appeal No. 1430 of 2023. The Apex Court, vide Order dated 29.01.2024 disposed of the Criminal Petition For Leave to Appeal directing this Bench to dispose of the Rule on merit with further direction that the order of stay granted by the Hon'ble Judge-in-Chamber shall continue till disposal of the Rule.

We have heard the learned Advocate of the accused petitioner and the learned Deputy Attorney General.

The learned Deputy Attorney General vehemently opposes the Rule.

In the instant case, the FIR was lodged on 10.03.2023 under Section 11(kha) and Section 30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000 against the accused-petitioner and two others, the date of occurrence being between the period from 25.05.2019 to 27.02.2023. As per the direction of this Court passed in Criminal Miscellaneous Case No. 17400 of 2023 the petitioner surrendered before the Nari-O-Shishu Nirjatan Daman Tribunal No. 7, Dhaka on 05.04.2023 and prayed for bail. The Tribunal rejected the prayer for bail of the petitioner and sent him to the jail hajat. Thereafter, this Division issued a Rule and granted ad-interim bail to the petitioner on 08.05.2023. It is already stated above that the Apex Court stayed operation of the order of ad-interim bail.

It appears from the supplementary affidavit that police submitted charge sheet No. 465 dated 29.12.2023 against the petitioner under Section 11(Ga) of the Nari-O-Shishu Nirjatan Daman Ain, 2000 and recommended to discharge the other two co-accused. It further appears that the informant filed a naraji

petition against the charge sheet before the Nari-O-Shishu Nirjatan Daman Tribunal No. 7, Dhaka. The Tribunal examined the informant, considered the FIR, charge sheet and other materials on record and, vide Order dated 23.04.2024 directed the Police Bureau of Investigation (PBI) to conduct an inquiry under Section 27(1Ka) of the Ain, 2000 and to submit a report before the Tribunal within 07 (seven) working days. The Tribunal fixed 11.06.2024 for inquiry report and hearing as to the acceptability of the said report. It appears that meanwhile, the case has been registered as Nari-O-Shishu Case No. 20 of 2024.

Today, when the matter was taken up for delivery of judgment, the learned Deputy Attorney General informed this Court that the PBI have not yet submitted the inquiry report.

Considering the fact that the FIR was lodged under Section 11(Kha), police submitted charge sheet under Section 11(Ga), the PBI have not yet submitted inquiry report within the stipulated period as directed by the Tribunal following the naraji petition filed by the informant and that the accused-

petitioner has been languishing in jail custody since 05.04.2023, we find merit in the Rule.

In the result, the Rule is made absolute.

The accused-petitioner, namely **Md. Aslam, son of Md. Wazed Khan** be enlarged on bail on furnishing bail bond to the satisfaction of Nari-O-Shishu Nirjatan Daman Tribunal No. 7, Dhaka till disposal of Nari-O-Shishu Case No. 20 of 2024 corresponding to G.R. No. 89 of 2023 arising out of Banani Police Station Case No. 18 dated 10.03.2023.

However, the Court below is at liberty to cancel the bail if the accused-petitioner misuses the privilege of the same.

Office is directed to send a copy of this judgment and order to the concerned Court below immediately.

Sardar Md. Rashed Jahangir , J.

I agree.