

**Criminal Appeal No. 6952 of 2023**

**31.01.2024**

**Present :**

Mr. Justice Md. Rezaul Haque

And

Mr. Justice Md. Khairul Alam

Mr. M. Ashraful Islam, 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 section 304/34 of the Penal Code and sentenced to suffer rigorous imprisonment for life and to pay a fine of Tk. 10,000/- (ten thousand) in default to suffer rigorous imprisonment for 6 (six) months more.

Mr. M. Ashraful Islam, learned Advocate appearing for the convict appellant-petitioner has submitted that at the time of trial, the appellant had been working in Dubai and the trial of the appellant was held in absentia without complying with the provisions of sections 87 and 88 of the Code of Criminal Procedure. After arriving in the country, the appellant voluntarily surrendered before the Court on 19.10.2022 and he was sent to jail and since then he has been languishing in jail. By now he has served more than 2 years and 3 months of his sentence. Learned Advocate has further submitted that the prosecution examined 14 witnesses to

prove the case but none of the prosecution witnesses disclosed the name of the appellant. The conviction of the appellant is solely based on a confessional statement of co-convicts made under section 164 of the Code of Criminal Procedure and therefore, he has every chance of acquittal but it is uncertain as to when the appeal will be heard. He has lastly submitted that co-convicts Md. Sagar and Md. Haque who implicated the appellant in their confessional statements were enlarged on bail and the present appellant stands on better footing. 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 along with a fine. It has been alleged that the prosecution examined 14 witnesses to prove the case but none of the prosecution witnesses disclosed the name of the appellant. The conviction

of the appellant is solely based on the confessional statement of two co-convicts made under section 164 of the Code of Criminal Procedure and therefore, he has every chance of acquittal. Co-convicts Md. Sagar and Md. Haque who made the confessional statements were enlarged on bail. It is uncertain as to when the appeal will be heard. In that view of the matter, the prayer for bail of the appellant is allowed.

Let the Convict-appellant **Md. Sona Mia, son of Mofel alias Mofez Uddin**, is granted bail till disposal of the appeal, on furnishing bail bond to the satisfaction of the learned Additional Sessions Judge, Meherpur.

Kashem/B.O