

Present:
Mr. Justice Mohammad Ali
And
Mr. Justice Sk. Tahsin Ali
Criminal Miscellaneous Case No. 32550 of 2023.

Md. Abdur Rahim

..... Accused-petitioner

-Versus-
The State

... Opposite Party

Mr. Md. Humayun Kabir, Advocate

.... For the accused-petitioner

Mr. Sk. Zulfikar Alom Shimul, D. A. G with

Mr. Md. Alamgir Hossain, A. A. G

Mr. Md. Shamsil Arefin, A. A. G. and

Mr. Projjal Chakma, A.A.G.

... For the State

Heard and Judgment on: 14.11.2024.

SK. Tahsin Ali, J:

On an application under Section 498 of the Code of Criminal Procedure this Rule was issued calling upon the opposite party to show cause as to why the accused-petitioner should not be enlarged on bail in Special Case No. 02 of 2023 arising out of Ramgonj Police Station Case No. 16 dated 25.01.2013 corresponding to G. R. No. 16 of 2013 under Sections 409/109/511 of the Penal Code read with Section 5(2) of Durnity Protirodh Ain, 1947, now pending in the court of learned Special

Judge, Noakhali and/or pass such other or further order of orders as to this Court may seem fit and proper.

Facts in short is that the informant was the director of the Ramgonj Branch, Pubali Bank Ltd., Lakshmipur and the accused No. 01 was the Director of the said Bank between the period of 11.11.2007 and 28.11.2012 and then he was transferred to the Noakhali Branch and he joined there on 29.11.2012 and he took leave on 02.12.2012 to 08.12.2012. Accused No. 02 was the owner of Tubjo Telecom and he is an account holder being No. 3815901003614 on that Bank. The accused No. 01 was accused on misappropriation during his activities in Ramgonj and he was served a notice to join his post in Noakhali but he sent an email through Ramgonj Publi Bank Branch by explaining his activities and he tried to free from charge by involving the name of the accused No. 2. Then a general diary being No. 425 dated 09.01.2013 was lodged in the Maizdee court on 09.01.2013 against the petitioner and the higher authority of the Pubali Bank Ltd. came to the Ramgonj Branch and found allegation of cheating and misappropriation abut the accused No. 1 and 2. The accused No. 1 transferred total Tk. 26,00,000/- (twenty six lacs) to the account number of accused No. 2 and withdraw the said amount in different times. Thereafter the accused No. 1 also transferred 8,00,000/- (eight lacs) to the account number of the accused No. 2 and they misappropriated the same. Thereafter the

accused No. 1 brought total Tk. 83,00,000/- (eighty three lacs) from the Pubali Bank Ltd. Principal Branch, Dhaka and deposited the same to the accused No. 2 account and they misappropriated the same, Hence the case.

Mr. Md. Humayun Kabir learned Advocate for the petitioner submits that the petitioner on 10.01.2023 voluntarily surrendered before the court of learned Special Judge, Laxmipur and since then he has been languishing in jail hazot till today. He further submits that co-accused Md. Saiful Islam alias Saiful Islam has been enlarged on bail on 02.04.2017 by a Division Bench of this Court in Criminal Miscellaneous Case No. 11969 of 2017 and the petitioner stands on same footing. In such circumstances, he prays for bail.

Mr. Sk. Zulfikar Alom Shimul, Deputy Attorney General appearing for the state has opposed the Rule.

We have considered the submissions of the learned Advocate and the learned Deputy Attorney General. Perused the records and its annexures as appended the application and considered the submissions of both the sides.

The petitioner on 10.01.2023 voluntarily surrendered before the court of learned Special Judge, Noakhali in Special Case No. 09 of 2018 since he has been languishing in jail hajot more than 01 year and 11 months.

Moreso, the co-accused of the same footing Md. Saiful Islam alias Saiful Islam enlarge on bail on 02.04.2017 by this Hon'ble High Court Division.

In view of the above facts and circumstances, we find substance in the Rule.

In the result, the Rule is made absolute.

Let accused petitioner **Md. Abdur Rahim**, son of Md. Abdur Rahman be enlarged on bail subject to furnishing bail bond to the satisfaction of the learned Special Judge, Noakhali till conclusion of trial.

However, the court below is at liberty to cancel the bail of the petitioner, if he misuses the privilege of bail in any manner.

Communicate the order to the concerned court at once.

Mohammad Ali, J:

I agree.