

Criminal Appeal Case No. 8233 of 2023

Order dated 24.1.2024

Mrs. Farzana Sharmin, Advocate.

.....For the appellant.

Mrs. Yesmin Begum Bithi, D.A.G.

.....For the Sate.

This is an application for bail of the convict appellants convicted under sections 9ka/30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000, and sentencing the appellant No.1 to suffer rigorous imprisonment for a period of 10 years and to pay a fine of Tk. 20,000/-, under section 9ka of the Nari-O-Shishu Nirjatan Daman Ain, 2000, and also sentencing the appellant Nos. 2 to 5 to suffer rigorous imprisonment for 10 years and to pay a fine of Tk. 20,000/-, to each under section 9ka/30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000 and also acquitted one co-convict from the charge of the instant case.

Mrs. Farzana Sharmin, the learned Advocate appearing for the convict petitioner has submitted that there is no iota of evidence as to the appellants and the appellants are totally innocent and in no way they are connected with the alleged offence. Learned Advocate has further submitted that the

informant has falsely implicated the appellants with this case only to harass them. Learned Advocate has further submitted that most of the convict appellant petitioners have been languishing in Jail since 31.7.2023 and appellant No. 4, surrendered on 01.08.2023 i.e. on the very next date of the delivery of judgment and since then they have been languishing in jail custody. Learned Advocate has further submitted that the prosecution witnesses could not prove the case beyond reasonable doubt against the convict appellant. Learned Advocate has earnestly submitted that the petitioners have already suffered about six months, out of their sentence, and there is no chance of early hearing of the appeal, moreover, the prosecution has miserably failed to prove its case against the appellant so, it is a case of no evidence, accordingly, she has prayed for bail.

The learned Deputy Attorney General appearing for the opposite party opposes the prayer for bail.

Heard the learned advocate of both sides and perused the impugned judgment, deposition of the P.Ws and other documents annexed to the application for bail.

Admittedly this is an appeal of 2023. The learned Advocate has submitted that the conviction and sentence may not be found tenable at the time of hearing of the appeal as this appellants had no connection with the offence as provides in section 9ka/30 of the Nari-O-Shishu Nirjatan Daman Ain, 2000, rather the appellant petitioners have become the victims. It appears to us that there is no certainty as to when the appeal will be heard though the appeal is ready for hearing. In that view of the matter the prayer for bail is allowed.

Let the convict appellants Nos.1. Anowar Hossain alias Anar Ali son of Akbor Ali Mistri, 2. Amirul Islam son of Fozol Pramanik, 3. Sazdar son of late Yakub Majhi, 4. Ansar Ali son of late Omar Ali alias Omra, 5. Saban Ali son of late Nobir Uddin, be enlarged on bail till disposal of the appeal after furnishing bail bond to the satisfaction of the Chief Judicial Magistrate, Natore.