

Criminal Appeal No. 8413 of 2023

14.12.2023

Mr. Md. Abdul Mukit, Adv

...for the appellant.

Mrs. Yesmin Begum Bithi, D.A.G

..for the State.

This is an application for bail in a pending appeal.

The convict appellant is found guilty under Table 3 (Kha) of section 19 (1) of the Madok Drobbya Niyantran Ain, 1990, and sentencing him to suffer rigorous imprisonment for life and also to pay a fine of Tk.15,000/-, in default, to suffer simple imprisonment for a period of 6 months more.

Mr. Md. Abdul Mukit, the learned Advocate appearing on behalf of the convict appellant has submitted that the appellant has been convicted in the aforesaid manner for allegedly recovery of contraband items. Learned Advocate has contended that the appellant was on bail at the trial stage. Learned Advocate has further submitted that the appellant has been taken into Jail hajat on 16.8.2023 and since then he has been languishing in custody. Learned Advocate has further submitted that no incriminating article was recovered from the possession of the convict appellant and there is no iota of evidence against the convict appellant, moreover, seizure list witnesses did not support the prosecution case and as such the impugned judgment and order of conviction has no basis at all. Learned Advocate has further submitted the conviction and sentence may not be found tenable at the time of hearing of the appeal. Learned Advocate has earnestly submitted that

there is no certainty as to when the appeal will be heard accordingly, he has prayed for bail of the appellant.

Mrs. Yesmin Begum Bithi, the learned Deputy Attorney General for the State opposes the prayer for bail.

We have considered the submissions of both sides, perused the evidence and materials on record so far available.

Admittedly this is an appeal of 2023. The appellants have been sentenced to suffer rigorous imprisonment for life along with fine and the appellant has already suffered about four months out of his sentence, moreover, it is unlikely that the matter will be heard at an early date. The learned Advocate has submitted that the conviction and sentence may not be found tenable at the time of hearing of the appeal. In that view of the matter the prayer for bail is allowed.

Let the convict-appellant Md. Nazu Mia son of late Nayeb Uddin, be enlarged on bail till disposal of the appeal after furnishing bail bond to the satisfaction of the Chief Judicial Magistrate, Dinajpur.