

Present:
Mr. Justice Zafar Ahmed
And
Mr. Justice Khandaker Diliruzzaman

Criminal Miscellaneous Case No. 48888 of 2023

Ershad Ali

...Accused- petitioner.

-Versus-

The State and another

...Opposite parties

Mr. M. Sayed Ahmed, Senior Advocate with
Ms. Sabrina Zarin, and
Mr. Abdul Qaium, Advocates

...For the petitioner

Mr. Shaheen Ahmed, Advocate

.....For the opposite party No. 2 (ACC)

Heard on: 15.02.2024

Judgment on: 14.03.2024

Zafar Ahmed, J.

In this application for bail filed under section 498 of the Code of Criminal Procedure, Rule was issued on 22.08.2023 calling upon the opposite parties to show cause as to why the accused petitioner should not be enlarged on bail in connection with Metropolitan Special Case No. 93 of 2021 corresponding to Dudak G.R. No. 60 of 2021 arising out of Dudak (Somonnito Zilla Karjaloy Dhaka-01) Case No. 04(06)2021 dated 08.06.2021 under Sections 409, 467, 468, 471 and 109 of the

Penal Code, now pending in the Court of Metropolitan Senior Special Judge, Dhaka and/ or pass such other or further order or orders as to this Court may seem fit and proper.

We have heard the learned Advocate of the accused petitioner, and the learned Advocate for the ACC.

Mr. Shaheen Ahmed, the learned Advocate for the ACC vehemently opposes the Rule.

In the instant case, the FIR was lodged 8.6.2021 by the ACC against 17 accused persons. The petitioner is the FIR named accused No. 1. He is the proprietor of Ershad Brothers Corporation. FIR named accused Nos. 2-17 are former employees of AB Bank Ltd. at various ranks and profiles. The crux of the allegation against the petitioner is that he, by submitting 6 forged work orders, obtained revolving credit facilities from the AB Bank between the period from 2010 to 2018. It appears from the materials on record that earlier AB Bank filed Artha Rin Suit No. 530 of 2020 against the present petitioner and others for Tk. 162 crore. The said Artha Rin Suit has been decreed.

It is stated in the counter affidavit filed by the ACC that the Artha Rin Suit has no nexus with the alleged loan which is the subject matter of the FIR and which was granted based on 6(six) fake and forged work orders using the name of Sinohydro Corporation Ltd. and China Major Bridge Engineering Company Ltd. .

The present petitioner surrendered on 17.05.2022. ACC has not yet submitted the investigation report. Accused Nos. 2-17 have been enjoying the privilege of bail.

Considering the above aspects of the case, we find merit in the Rule.

In the result, the Rule is made absolute.

The accused petitioner, namely **Md. Ershad Ali, son of late Abdur Rashid** be enlarged on bail on furnishing bail bond to the satisfaction of the Court of Metropolitan Senior Special Judge, Dhaka till disposal of Metropolitan Special Case No, 93 of 2021.

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.

Khandaker Diliruzzaman, J.

I agree.

Mazhar/BO