

Criminal Appeal No. 11405 of 2023

31.01.2024

Present:

Mr. Justice Md. Rezaul Haque

And

Mr. Justice Md. Khairul Alam

Mr. Md. Sakhawat Hossain, 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 Part I of the Penal Code and sentenced to suffer rigorous imprisonment for life and to pay a fine of Tk. 1,00,000/- (one lakh) in default to suffer rigorous imprisonment for 2 (two) years more.

Mr. Md. Sakhawat Hossain, learned Advocate appearing for the convict appellant-petitioner has submitted that the appellant was arrested in connection with this case on 06.08.2017 and he was enlarged on bail 10.07.2018 and he never misused the privilege of bail. On the date of judgment i.e. on 19.10.2023, the appellant was sent to jail and since then he has been languishing in jail and by now he has served more than 1 year and 3 months of his sentence. Learned Advocate has further submitted that the conviction of the appellant is solely based on a confessional statement made under section 164 of the Code of Criminal Procedure by a co-

accused namely Most. Joytun Nesa who was a minor at that relevant time and therefore, he has every chance of acquittal. Though this appeal is ready for hearing, it is uncertain as to when the appeal will be heard. 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 conviction of the appellant is solely based on a confessional statement made under section 164 of the Code of Criminal Procedure by a co-accused namely Most. Joytun Nesa, who was a minor at that relevant time, and therefore, he has every chance of acquittal and 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. Fatehul Islam, son of Alhaj Abdur Rahman**, be enlarged on bail till disposal of the appeal after furnishing bail bond to the satisfaction of the learned Senior Sessions Judge, Chapainawabganj.

Kashem/B.O