

Bench:
 Mr. Justice Ashish Ranjan Das
 and
 Mr. Justice Md. Riaz Uddin Khan

Criminal Miscellaneous Case Number 66177 of 2023

Md. Abdul Alim and others
 ...Accused-Petitioners
 -Versus-
 The State
 ... Opposite party

Mr. Aviram Mallik, Advocate
 ... for the petitioner.

Mr. M. Asraful Hoque, Deputy Attorney General
 ...for the State.

Judgment on 23.01.2024.

Ashish Ranjan Das, J:

This rule at the instance of the accused was issued on an application under Section 498 of the Code of Criminal Procedure for granting him bail in Sessions Case No. 1404 of 2023 arising out of Shahjadpur P.S. Case No. 38 dated 20.05.2023 corresponding to G.R. Case No. 211 of 2023(Shah:) under Sections 302 and 34 of the Penal Code, now pending in the Court of learned Additional Sessions Judge, 3rd Court, Sirajgonj.

Deceased Narju Khatun is informant's daughter. On the date of the incident, the named accused entered informant's house finding informant's absence following a previous enmity and they dragged informant's sister Narju Khatun from the house gagging her face and dragged her to the jambu grass field located on the east side of the house. They hit, cut her throat with a sharp weapon and threw her in the land and the accused fled in the dark of night etc. Hence is the case.

Mr. Aviram Mallik, learned Advocate for the petitioner submits that there is no specific allegation of specific overt act against the accused in the FIR as well as charge sheet. The accused-petitioners are quite innocent and they have been falsely implicated in the instant case out of family enmity with the help of police only to harass and humiliate them and to cause them suffer in jail. He next submits that the accused petitioner nos. 1-5 voluntarily surrendered on 20.07.2023 and accused petitioner no. 6 voluntarily surrendered on 01.08.2023 and since they have been languishing in jail hajat.

Mr. S. M. Asraful Hoque, the learned Deputy Attorney General strongly opposes the prayer for bail, but does not

controvert the material points raised by the learned advocate for the petitioner.

On perusal of the record it appears that young Narju an eligible girl was done to death by night but there was no eye-witness. Accused Md. Sarwer Pramanic seems to have made a judicial confession exculpatory and the names of this petitioner occur in his statement no particular overt act has been attributed, nor they confessed nor there was a eye witness. It appears that all of them have voluntarily surrendered. This being the situation we find merit in this rule.

Accordingly the Rule is made absolute. The petitioner Nos. **1. Md. Abdul Alim, 2. Md. Amir Pramanik both are sons of Hazi Akbar Ali Prang, 3. Md. Moynal Pramanik son of Kurman Ali Fakir @ Solaiman Prang @Khaila Haila Prang, 4. Md. Royez Ali son of late Jabbar Prang, 5. Md. Mahir Uddin son of Md. Moynal Pramanik , 6. Md. Sabuj Sarder son of Md. Atahar Sarder** are granted bail in Sessions Case No. 1404 of 2023 arising out of Shahjadpur P.S. Case No. 38 dated 20.05.2023 corresponding to G.R. Case No. 211 of 2023(Shah:) under Sections 302 and 34 of the Penal Code, now

pending in the Court of learned Additional Sessions Judge, 3rd
Court, Sirajgonj.

Learned Judge of the Court below will, however, be at
liberty to cancel the bail in case of any proven misuse.

Md.Riaz Uddin Khan, J:

I agree.

B.O. Bashar