

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CRIMINAL MISCELLANEOUS JURISDICTION)

Present:

Mr. Justice S M Kuddus Zaman

And

Mr. Justice A.K.M. Rabiul Hassan

Criminal Miscellaneous Case No.34573 of 2024

Md. Momshed Ali @ Moonshed Ali
.... Accused-Petitioner

-Versus-

The State

.... Opposite Party

Mr. Md. Mahbub Ali with

Mr. Shyam Sundor Sinha, Advocates

.... For the petitioner.

Mr. Sujit Chatterjee, D.A.G. with

Mr. Moududa Begum, A.A.G.

Mr. Mirza Md. Soyeb Muhit, A.A.G.

Mr. Mohammad Selim, A.A.G.

Mr. Zahid Ahmed (Hero), AAG

.... For the State

Heard and Judgment on 01.08.2024

S M Kuddus Zaman, J:

On an application under section 498 of the Code of Criminal Procedure this Rule was issued calling upon the opposite party to show cause as to why the accused petitioner should not be enlarged on bail in Session Case No.01 of 2024 arising out of

Bahubal Model Police Station Case No.06 dated 09.09.2022 corresponding to G.R. Case No.125 of 2022 under Sections 143/341/302/114/34 of the Penal Code, now pending in the court of learned Special Sessions Judge, Hobigonj and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts in short are that it has been alleged in the FIR that pursuant to previous property dispute on 06.09.2022 at 4.00 P.M. the accused petitioner and other co-accused suddenly attacked victim Abul Khair Chowdhury and co-accused Shahabuddin and Hasan Chowdhury struck ramdaw blow on the head of victim Abul Khair Chowdhury and accused petitioner Md. Momshed Ali struck a fikil blow below the right shoulder of above victim causing his death.

Mr. Md. Mahbub Ali, learned Advocate for the petitioner submits that co-accused Shahabuddin who allegedly struck a ramdaw blow on the head of victim Abul Khair Chowdhury has been granted bail earlier. The petitioner is in custody in

connection of this case for about 1 year and 11 months. But the trial of the case has not yet begun.

Mr. Sujit Chatterjee, learned Deputy Attorney General for the State raises objection against granting of bail to the petitioner at this point of time.

We have considered the submissions of the learned Advocates for the respective parties and carefully examined all materials on record.

The name of the petitioner stands at serial No.3 in the FIR. It has been alleged that the accused petitioner struck a fikel blow below the right shoulder of victim Abul Khair Chowdhury. It further turns out from record that co-accused Shahabuddin struck a ramdaw blow on the head and co-accused Meherunnessa struck another dao blow on the belly of above victim and two co-accused have been granted bail earlier. Co-accused Nos.5 and 7 also have been granted bail earlier.

The petitioner is in custody in connection of this case for about 1 year and 11 months.

On conclusion of above materials on record we find substance in this petition under Section 498 of the Code of Criminal Procedure and the Rule issued in this connection deserves to be made absolute.

In the result, the Rule is hereby made absolute.

Let the accused petitioner Md. Momshed Ali @ Moonshed Ali, son of Md.Shawkat Ali be enlarged on bail subject to furnishing bail bond to the satisfaction of the learned Special Session Judge, Hobigonj.

The concern Court is at liberty to cancel the bail, if the accused-petitioner misuses the privilege of bail

Communicate this judgment and order to the Court concerned at once.

A.K.M. Rabiul Hassan, J:

I agree.