

Bench  
Mr. Justice Bhishmadev Chakrabortty  
and  
Mr. Justice A.K.M. Zahirul Huq

Criminal Miscellaneous Case No. 35863 of 2024

Md. Rakib Hossain ....accused-petitioner  
-Versus-

The State ....opposite party

Ms. Jesmin Akhter, Advocate  
.... for the petitioner

Mr. Md. Humayun Kabir Monju, Deputy  
Attorney General  
.... for the opposite party

Judgment on 29.08.2024.

Bhishmadev Chakrabortty, J:

In this Rule the opposite party was called upon to show cause as to why the accused-petitioner should not be enlarged on bail in Tongi Paschim Police Station Case No. 20 dated 22.08.2022 corresponding to GR No.173 of 2022 under sections 143, 324, 325, 326, 307, 302, 109 and 34 of the Penal Code now pending in the Court of Chief Metropolitan Magistrate, Gazipur and/or such other or further order or orders passed to this Court may seem fit and proper.

Ms. Jesmin Akhter, learned Advocate for the petitioner taking us through the materials on record submits that the petitioner is named in the first information report (FIR) as accused No.8. Allegation brought against him that he dealt a

*dao* blow on the chest of the deceased causing his death but in the postmortem examination report the injury on that specific place was found as stab injury which cannot be caused by *dao* blow. Moreover, some other accused also dealt indiscriminate blows upon the deceased but all of them were enlarged on bail. The petitioner being more or less on similar footing with those accused is entitled to the privilege of bail. He is in custody for more than two years and it is uncertain when the trial will start and conclude.

Mr. Humayun Kabir Monju, learned Deputy Attorney General on the other hand opposes the Rule and submits that the cause of death in the autopsy report has been assigned as injury No.10 which is caused by this petitioner. Since the postmortem report supports injury as stated in the FIR the petitioner may not be enlarged on bail at this stage.

We have considered the submissions of the learned Advocate for the petitioner and the learned Deputy Attorney General.

It appears that in the FIR allegation has been brought against the petitioner that he dealt a *dao* blow on the chest of the victim. But the autopsy report does not support the above

statement because in the report the injury is found as stab injury. Moreover, most of the accused against whom specific overt act of dealing blows upon the person of the victim were granted bail. The petitioner is found almost more or less on similar footing with those accused. He is in custody near about 2(two) years and the case record has not yet been transmitted to Sessions Judge for holding trial. It is uncertain when the trial will be commenced and come to an end.

In the aforesaid position, we find merit in this Rule. Accordingly, the Rule is made absolute. The accused-petitioner Md. Rakib Hossain, son of Md. Ali Hossain and Lucky Begum is granted bail in the aforesaid case subject to the satisfaction of the Chief Judicial Magistrate, Gazipur.

However, the trial Court will be at liberty to cancel the bail on any proven misuse.

Communicate this judgment and order at once.

A.K.M. Zahirul Huq, J:

I agree.