

Bench

Mr. Justice Bishmadev Chakraborty

and

Mr. Justice A.K.M. Zahirul Huq

Criminal Miscellaneous Case No.35749 of 2024

Md. Rubel Sheikh ....accused-petitioner

-Versus-

The State

....opposite party

Mr. Md. Saiful Islam, Advocate

.... for the petitioner

Mr. Md. Humayun Kabir Monju, Deputy  
Attorney General

.... for the opposite party

Judgment on 29.08.2024.

Bishmadev Chakraborty, 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 Rajbari Police Station Case No.53 dated 25.04.2023 corresponding to GR No.197 of 2023 under sections 302, 326, 307 and 34 of the Penal Code read with sections 3 and 6 of the Explosive Substances Act, 1908 now pending in the Court of Chief Judicial Magistrate, Rajbari and/or to pass such other or further order or orders to this Court may seem fit and proper.

Mr. Md. Saiful Islam Sohel, learned Advocate for the petitioner taking us through the FIR and confessions made by the petitioner and other four co-accused submits that the petitioner is not named in the FIR. Subsequently he was made

accused in this case on the basis of his confession and the confession of other four co-accused. The confession of this accused is to some extent exculpatory. The other four confessing co-accused who are more or less on the similar footing has been granted bail by a bench of this Division. Under the facts and circumstances the petitioner is entitled to the privilege of bail and the Rule be made absolute.

Mr. Humayun Kabir Monju, learned Deputy Attorney General on the other hand opposes the Rule and submits that the murder was pre meditated and this petitioner was carrying a pipegun in his hand. Although in the confession he did not state that he opened fire but he was a member of that party. In such situation, he is not entitled to the privilege of bail.

We have heard the learned Advocate for the petitioner and the learned Deputy Attorney General. It is found that none was named in the FIR as accused. The petitioner and four other co-accused made confessions under section 164 of the Code of Criminal Procedure. We have gone through the confessions made by the accused. Although this petitioner was present in the place of occurrence but he did not take part in killing of the victim. He did not open fire. It is further found that two other

co-accused Md. Azizul Islam alias Juboraj and Md. Golam Mostafa Sheikh who made confessions and are more or less on similar footing with the petitioner have been granted bail by a bench of this Division.

Considering the aforesaid facts, we find substance in the submission of the learned Advocate for the petitioner.

Accordingly, the Rule is made absolute. Accused-petitioner Md. Rubel Sheikh, son of Md. Babu Sheikh should be enlarged on bail in the aforesaid case subject to the satisfaction of the Chief Judicial Magistrate, Rajbari.

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

Communicate the judgment and order at once.

A.K.M. Zahirul Huq, J:

I agree.