

Present:

Mr. Justice A.K.M. Asaduzzaman

And

Mr. Justice Md. Ashraful Kamal

Criminal Misc.Case No.10405 of 2011

Md. Robiul Islam

.....Petitioner.

-Versus-

The State

.....Opposite party.

Mr. Md. Shohidul Islam with

Mr.Mozahar Hossain, Advocate.

.....For the petitioner

Mr.Md. Masud Hasan Chowhdury,

A.A.G.

.....For the Opposite party.

Heard and Judgment on 7th.June,2011.

A.K.M.Asaduzzaman,J.

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 G.R. Case No.365 of 2008 (Shib) arising out of Shibgonj P.S. Case No.38 dated 25.10.2008 under section 7(1)/ 7(2) /8/ 9(1) /12 of the Anti Terrorism (Amendment) Ain,2009, now pending in the Court of learned Chief Judicial Magistrate, Chapai Nawabganj.

The prosecution case, in short is that on 25.10.2008 at 00.15 hours at night the informant party received a secrete information that some terrorists are gathering in the house of one Md. Ekramul Haque to generate the member of JMB and to continue their activity and thereafter the informant party raided the house of said Md. Ekramul Haque and managed to nab 2(two) accused persons and also managed to recover some articles from that house under their control and seized those preparing seizure list; hence the case.

One of co-accused person named Md. Hazrat Ali after being arrested made a confessional statement under section 164 of the Code of Criminal Procedure and disclosed the name of the petitioner accordingly he was arrested on 28.03.2009, moved for bail; since his prayer for bail was rejected by the impugned order, he then obtained the instant rule.

The learned advocate appearing for the petitioner submits that the instant case the petitioner is not FIR named accused although his name was appeared in the confessional statement of co-accused Md. Hazrat Ali but having no involvement in the so called incident and he has got fair chance of acquittal in this case. He further submits that till now the trial court could not frame

charge although charge sheet was submitted on 25.10.2008 and the other co-accused standing on the same footing has been enlarged on bail and the petitioner is in custody for more than 2 years without trial and as such he may be enlarged on bail.

The learned Assistant Attorney General appearing for the opposite party opposes the prayer for bail.

Heard the learned advocate of both the sides and perused the FIR, other documents annexed to the supplementary affidavit and the impugned order.

On perusal of the confessional statement and considering that the co-accused has been enlarged on bail and that the petitioner is in custody for more than 2 years without trial and the trial is delayed for no fault of the petitioner, we find substance in the submission of the learned advocate for the petitioner and as such we are inclined to enlarge him on bail. We find merits in this rule.

In the result, the rule is made absolute. The petitioner Md. Robiul Islam, son of Md. Sadequl Islam may find bail on furnishing bail bond subject to the satisfaction of the learned Chief Judicial Magistrate, Chapai Nawabganj in G.R. Case No.365 of 2008 (Shib) arising out of Shibgonj P.S. Case No.38 dated

25.10.2008. The trial court however, is at liberty to cancel the bail, if the accused petitioner misuses in any way the privilege of bail.

Communicate the order at once.

Md. Ashraf Kamal, J.

I agree.