In the Supreme Court of Bangladesh
High Court Division
(Criminal Miscellaneous Jurisdiction)

Present:
Mr. Justice Md. Khairul Alam
And
Ms. Justice Urmee Rahman

Criminal Miscellaneous Case No. 16447 of 2026

Abdul Khalid
.....Accused-petitioner
-Versus-
The State
..... Opposite party
Mr. S.M. Shahajahan, Senior Advocate with
Mrs. Hamida Chowdhury, Advocate
……. For the accused-petitioner
Mr. Md. Masudul Alam Doha, D.A.G. with
Mr. Md. Nasimul Hasan, A.A.G
Mr. Md. Husni Mubarak (Rocky), A.A.G and
Mr. Syed Akhtarul Islam, A.A.G and
Mr. Khan Mahfuzun Noor, A.A.G
…… For the opposite party

Heard & Judgment on: 01.11.2026

Md. Khairul Alam, J:

This Rule, issued under section 498 of the Code of Criminal Procedure, 1898, at the instance of the accused-petitioner, Abdul Khaleque, calling upon the opposite party to show cause as to why the accused-petitioner should not be enlarged on bail in Sreemangal Police Station Case No. 13 dated 13.07.2024 corresponding to G.R. No. 161 of 2024

(Sreemangal) under sections 143/447/323/324/307/302/ 506(2)/109/34 of the Penal Code, now pending in the Court of Chief Judicial Magistrate, Moulvibazar and/or pass such other or further order or orders as to this Court may seem fit and proper.

The facts relevant for the disposal of this Rule are that on 13.07.2024, one Md. Rois Uddin, as informant, lodged a First Information Report (FIR) with Sreemangal Police Station implicating 16 persons including the petitioner and 8-10 unknown persons, alleging, inter alia, that the deceased, Imad Uddin Rakib, the younger brother of the informant, was a trainee lawyer at the Moulvibazar District Bar. On 12.07.2024, at about 10:00 a.m., while the deceased, injured Helal Uddin and others were cultivating their ancestral land, the accused persons, being armed with various deadly weapons, formed an unlawful assembly, entered the land and obstructed them from cultivating the land and after being protested, the accused persons attacked the informant's party. During the occurrence, the present petitioner, accused Abdul Khalil, allegedly dealt a dao blow to the left elbow of the deceased, while accused

No. 5, Abul Hasan, also dealt a dao blow to his left elbow. Accused No. 2, Abdus Sukur, allegedly inflicted a blow with a sulpi on the chest of the deceased, while the other accused persons also assaulted him, causing serious injuries. Subsequently, the deceased and injured Helal Uddin were rescued and taken to Sreemangal Upazila Health Complex, where the attending doctor declared the deceased dead. The police thereafter held an inquest and sent the dead body for post-mortem examination. Hence, the case.

On 18.07.2024, the petitioner was arrested and produced before the learned Chief Judicial Magistrate, Moulvibazar, who rejected his prayer for bail and remanded him to custody. Since then, he has been in custody in connection with the present case. During investigation, the petitioner and other co-accused persons made confessional statements under section 164 of the Code of Criminal Procedure. Upon completion of the investigation, the police submitted a charge-sheet against the petitioner and other accused persons. The petitioner's prayer for bail was lastly rejected by the learned Sessions Judge, Moulvibazar, by

order dated 16.01.2026 passed in Criminal Miscellaneous Case No. 71 of 2026.

Being aggrieved by and dissatisfied with the said order, the accused-petitioner moved this Court and obtained the present Rule.

Mr. S.M. Shahajahan, the learned Advocate appearing on behalf of the accused-petitioner, submits that the occurrence took place in the course of a free fight between the parties arising out of a longstanding land dispute, in which both sides sustained injuries. He further submits that, according to the FIR, the injury allegedly inflicted by the petitioner was on the left elbow of the deceased and was not fatal. He contends that the subsequent confession, which is inconsistent with the version of the informant, who claims to be an eyewitness, raises serious questions as to its truthfulness and voluntariness. He next submits that co-accused Abdul Hasanwho stand on similar footing, have already been enlarged on bail and, as such, the petitioner is also entitled to the benefit of the principle of parity. Lastly, he submits that although the police have submitted a charge-sheet under section 173 of the Code, there is no

immediate likelihood of commencement of the trial and that the continued detention of the petitioner would serve no useful purpose. He, therefore, prays for making the Rule absolute and enlarging the petitioner on bail.

On the other hand, Mr. Md. Masudul Alam Doha, the learned Deputy Attorney-General appearing for the State, opposes the Rule and submits that although the FIR attributes a comparatively minor injury to the petitioner, his confessional statement recorded under section 164 of the Code reveals that he inflicted the fatal blow upon the deceased. He further submits that, if enlarged on bail, the petitioner may abscond, tamper with the evidence or otherwise impede the course of justice and therefore, the petitioner does not deserve the privilege of bail at this stage.

We have heard the learned Advocates for the respective parties, perused the application for bail, the impugned order and the materials available on record.

The principal ground urged on behalf of the State is that, if enlarged on bail, the petitioner may abscond or tamper with the evidence. However, upon perusal of the materials on record, we do not find any tangible material to

substantiate such apprehension. Mere apprehension, unsupported by any specific material, cannot by itself constitute a sufficient ground for refusing bail.

It further appears from the submissions advanced on behalf of the petitioner that co-accused Abdul Hasan (FIR serial No. 7) and Ripon Sarder (FIR serial No. 5), who are stated to stand on similar footing, have already been enlarged on bail by the competent Court. The learned Advocate for the petitioner, therefore, invokes the well-recognised principle of parity in support of his prayer for bail.

In this regard, we may refer to the decision of the Appellate Division in Shafik Rahman vs. The State, wherein it was reiterated that bail should not be withheld as a measure of punishment and that pre-trial detention should not be allowed to assume a punitive character.

Having considered the submissions advanced by the learned Advocates for the respective parties, the nature of the allegations, the role attributed to the petitioner in the FIR, the alleged confessional statement, the period of detention already undergone by him, the fact that similarly situated co-accused persons have been enlarged on bail,

and the absence of any tangible material indicating a likelihood of his absconding or tampering with the evidence, we are of the view that continued detention of the petitioner is not warranted in the facts and circumstances of the case. The evidentiary value and effect of the alleged confessional statement, particularly in the context of the other materials on record, are matters to be determined at trial and need not be conclusively examined at this stage.

In view of the foregoing facts and circumstances, we find substance in the submissions advanced on behalf of the petitioner and are inclined to extend to him the privilege of bail.

In the result, the Rule is made absolute.

Let the accused-petitioner, Abdul Khalil, son of late Abdul Baril @ Barik Sarder, be enlarged on bail till the conclusion of the trial upon furnishing bail bonds to the satisfaction of the learned Chief Judicial Magistrate, Shariatpur.

The learned Chief Judicial Magistrate, Moulvibazar, shall, however, be at liberty to cancel the bail of the

accused-petitioner if he misuses the privilege of bail in any manner whatsoever.

Let a copy of this judgment and order be communicated to the Court concerned at once.

Ms. Urmee Rahman, J.

I agree

Kashem, B.O