

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

Present:
Mr. Justice Md. Khairul Alam
And
Mr. Justice Md. Rafizul Islam

Criminal Miscellaneous Case No. 51852 of 2026

Md. Shakhawat
.....Accused-petitioner
-Versus-
The State
..... Opposite party
Ms. Kaniz Fatema, Advocate
..... For the accused-petitioner
Mr. Md. Masudul Alam Doha, D.A.G.
..... For the opposite party

Heard & Judgment on: 10.09.2026.

Md. Khairul Alam, J:

This Rule under section 498 of the Code of Criminal Procedure was issued at the instance of the accused-petitioner, Md. Shakhawat, calling upon the opposite party to show cause as to why the accused-petitioner should not be enlarged on bail in connection with Badda Police Station Case No. 18 dated 13.08.2025 corresponding to G.R. No. 279 of 2025 under sections 302/109/34 of the Penal Code, 1860 now pending in the Court of Chief Metropolitan

Magistrate, Dhaka and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts relevant for disposal of this Rule are that on 13.08.2025 one Md. Parvej Rabbi, as Informant lodged a First Information Report with the Badda Police Station implicating the accused-petitioner along with others alleging, inter alia, that on 05.08.2024 at about 2.30 p.m., while a procession of the “Anti-discrimination Student Movement” was staying in front of the BRAC University, situated under Badda Police Station, the accused persons, being armed with various deadly weapons, attacked the procession. At that time, Al-Amin, the younger brother of the informant, received bullets and was first taken to Farazi Hospital, Rampura, and then to Mugda Medical College Hospital, Dhaka, where the on-duty doctor declared him dead. Hence, the F.I.R. On the basis of said F.I.R Badda Police Station Case No. 18 dated 13.08.2025 under sections 302/109/34 of the Penal Code, 1860, was initiated which gave rise to G.R. No. 279 of 2025, and is now pending in the Court of the Chief Metropolitan Magistrate, Dhaka and is still pending for investigation.

On 08.12.2025, the petitioner was arrested by the police in connection with this case and was produced before the learned Chief Metropolitan Magistrate, Dhaka, who, rejecting the prayer for bail of the petitioner sent him to custody and since then the petitioner has been languishing in custody.

Being aggrieved thereby, the petitioner moved before this Court and obtained the present Rule.

Ms. Kaniz Fatema, learned Advocate appearing for the petitioner, submits that the alleged occurrence took place on 05.08.2024 but the FIR was lodged on 13.08.2025 implicating as many as 196 persons, the petitioner is accused No. 28 and no specific overt act has been attributed to him. He further submits that the informant is not an eye-witness and that the petitioner has been implicated at the instance of his rival. He next submits that co-accused Golam Kibria Tipu who stands on the same footing, is enjoying the privilege of bail. He also submits that there is no chance of absconding or tampering with evidence on the part of the petitioner if he is enlarged on bail. It is further

submitted that till date no police report has been submitted and it is uncertain when the trial will commence.

Mr. Md. Masudul Alam Doha, learned Deputy Attorney-General appearing for the State, opposes the Rule and submits that the investigation is still pending and if the petitioner is enlarged on bail there is every possibility of his interfering with the process of investigation and tampering with evidence. He further submits that the offence was allegedly committed in connection with the “Anti-discrimination Student Movement” and, therefore, the petitioner does not deserve bail at this stage.

Heard the learned Counsels for the respective parties, perused the application and the materials on record.

From the order passed by the learned Metropolitan Sessions Judge, Dhaka, refusing bail, it appears that the prayer was rejected primarily on the ground that the investigation was continuing. The learned Deputy Attorney-General also emphasized the same ground.

It appears that the FIR was lodged on 13.08.2025 and till today no police report has been submitted. While

investigation is a matter within the domain of the investigating agency, the fact remains that the petitioner has been in custody since 08.12.2025 and no charge-sheet has yet been submitted. From the materials on record, we do not find any tangible material to substantiate the apprehension expressed by the learned Deputy Attorney-General regarding interference with investigation or tampering with evidence. We also do not find any material indicating likelihood of absconding on the part of the petitioner. Moreover, co-accused standing on similar footing have already been enlarged on bail.

Considering the attending facts and circumstances of the case, the length of detention, absence of specific overt act, and parity with co-accused, we are inclined to enlarge the petitioner on bail.

In the result, the Rule is made absolute.

The petitioner, Md. Shakhawat, son of Idris Ali Ghatak, is granted bail till disposal of the trial upon furnishing bail bond to the satisfaction of the learned Chief Metropolitan Magistrate, Dhaka.

The concerned Court, however, shall be at liberty to cancel the bail of the petitioner if he misuses the privilege of bail in any manner whatsoever.

Communicate this order immediately.

Md. Rafizul Islam, J

I agree.

Kashem, B.O