

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

Criminal Miscellaneous No. _____ of 2023

In the matter of:

An application under section 561A of the
Code of Criminal Procedure.

-And-

In the matter of:

Most. Anowara Begum

.... Accused-petitioner

-Versus-

The State and another

.... Opposite Parties

Mr. Nurul Alam, Advocate

.... For the accused-petitioner

Mr. S. M. Fazlul Haque, D.A.G, with

Mr. M. A. Kamrul Hasan Khan (Aslam), D.A.G

... For the State

Present:

Mr. Justice S M Kuddus Zaman

And

Mr. Justice Fahmida Quader

The 14th March, 2023.

This is an application under Section 561A of the Code of Criminal Procedure at the instance of accused-petitioner is directed against an order passed by the learned Joint Metropolitan Sessions Judge, 2nd Court, Chattogram in Sessions Case No.722 of 2019, arising out of C.R. Case No.1100/2018 refusing to grant him bail for a limited period for filing an appeal from the judgment and order of conviction and sentence passed by above Court under section 138 of the Negotiable Instruments Act, 1881

and sentencing there under to suffer simple for 06(six) months and also to pay a fine of Tk.5,33,880/-(five lac thirty three thousand eight hundred eighty)only.

The learned Advocate for the petitioner submits that the petitioner was the sole accused in above Case under section 138 of the Negotiable Instruments Act, 1881 and on conclusion of trial he was convicted and sentenced as mentioned above. The petitioner was arrested pursuant to a committal warrant on **31.12.2022** and the petitioner submitted an application for bail under section 426(2A) of the Code of Criminal Procedure for preferring an appeal But the learned Judge of the Trial Court has most illegally rejected above petition.

The learned Advocate further submits that since the petitioner is required to deposit a huge amount of money to prefer an appeal as such he may be granted bail for 2(two) months to enable him to prefer an appeal.

Mr. S. M Fazlul Haque learned Deputy Attorney General concedes that section 426(2A) of the Code of Criminal Procedure provides for granting of bail to a convict who has been sentenced for a term not exceeding 1 (one) year for preferring an appeal.

We have considered the submissions of the learned Advocates for respective parties and examined all materials on record.

As mentioned above, the petitioner was on conclusion of trial convicted in above case under section 138 of the Negotiable Instruments Act, 1881

and sentenced to suffer simple imprisonment for one year. As such the learned Joint Metropolitan Sessions Judge, 2nd Court, Chattogram should have keeping in mind the provision of section 426(2A) of the Code of Criminal Procedure granted the petitioner bail for a limited period to enable him to prefer an appeal against above judgment and order of conviction and sentence. But the learned Judge has committed an error in rejecting above petition.

On consideration of above facts and circumstances of the case and materials on record we are granting bail to the petitioner for a period of two months so that can prefer an appeal subject to furnishing bail bond to the satisfaction of the learned Joint Metropolitan Sessions Judge, 2nd Court, Chattogram.

Above period of two months shall start run from the date of acceptance of bail bond by the learned Joint Metropolitan Sessions Judge, 2nd Court, Chattogram.

But if the petitioner fails to prefer an appeal within above period the Trial Court shall issue a fresh committal warrant against the petitioner in accordance with law.

With above direction this application is disposed of.

Let a copy of this order be sent to the trial Court at once.

Md. Kamrul Islam
Assistant Bench Officer