

**IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CRIMINAL MISCELLANEOUS JURISDICITON)**

**Present:**

**Mr. Justice Md. Nazrul Islam Talukder**

**And**

**Mr. Justice Kazi Ebadoth Hossain**

**Criminal Miscellaneous Case No.65708 of 2023**

Most. Sajeda Begum

**..... Accused-petitioner.**

**-Versus-**

The State

**..... Opposite-party.**

Mr. A.K.M. Foiz, Senior Advocate with

Mr. Mohammad Mizanur Rahman, Advocate

**.... For the Accused-petitioner.**

Mr. Md. Saiefuddin Khaled, D.A.G with

Mr. Md. Asaduzzaman, A.A.G with

Mrs. Afifa Begum Swapna, A.A.G and

Mr. Sarwar Akhtar Masud, A.A.G,

**..... For the State-opposite-party.**

**Heard and Judgment on: 18.01.2024.**

**Md. Nazrul Islam Talukder, J:**

On an application under Section 498 of the Code of Criminal Procedure, this Rule, at the instance of the accused-petitioner, was issued calling upon the opposite-party to show cause as to why the accused-

petitioner should not be enlarged on bail in S.T Case No.1719 of 2023 arising out of Teknaf Model Police Station Case No.29 dated 09.04.2022 corresponding to G.R Case No.329 of 2022 under Section 302 of the Penal Code, 1860, now pending in the Court of learned Additional Sessions Judge, 4<sup>th</sup> Court, Cox's Bazar and/or pass such other or further order or orders should not pass as to this Court may seem fit and proper.

The prosecution story in a nutshell is that informant lodged an FIR with the local Police Station alleging, inter-alia, that informant's son married the accused-petitioner 8 years back. During conjugal life, they have got 3 children. On the day of occurrence out of an altercation, the accused-petitioner caused injury by a Dao upon the son of informant. After the occurrence, the police came to the place of occurrence and seized the Dao and arrested the accused-petitioner.

Thereafter, the victim was taken to the hospital but the doctor declared him dead. Hence, the F.I.R.

After conclusion of the investigation police submitted charge sheet against the accused-petitioner under Section 302 of the Penal Code.

The accused-petitioner prayed for bail before the court of learned Additional Sessions Judge, but the same was rejected.

Being aggrieved by the same, the accused-petitioner approached this court with an application for bail under Section 498 of the Code of Criminal Procedure and obtained this Rule.

Mr. Mr. A.K.M. Foiz, the learned Senior Advocate with Mr. Mohamamd Mizanur Rahman, the learned Advocate appearing on behalf of the accused-petitioner, submits that as per averment of the FIR, it is clear that the accused-petitioner had no intention to

commit the murder which has been done on a sudden provocation and as such, the case is culpable homicide not amounting to murder and as such, the accused-petitioner may be enlarged on bail.

He next submits that the accused-petitioner is a women aged about 25 years and she was arrested on 08.04.2022 and as per provision of Section 497 of the Code of Criminal Procedure, the accused-petitioner may be enlarged on bail.

He further submits that the accused-petitioner has 3 minor children including one sucking baby as it is evident from FIR and police forwarding and she is in custody for about 1 year 7 months and on that compassionate ground, she may be released on bail.

He lastly submits that there is no early chance of conclusion of the trial and considering the facts and

circumstances of the case, the accused-petitioner may kindly be favoured with bail.

Mr. Md. Saiefuddin Khaled, the learned Deputy Attorney-General appearing for the State and very strongly opposes the prayer for bail and submits that the allegation that has brought against the accused-petitioner is serious in nature and as such, the Rule may be discharged.

He then submits that the custody period of the accused-petitioner is very short and for this reason, the accused-petitioner should not be enlarged on bail.

We have gone through the application for bail filed under Section 498 of the Code of Criminal Procedure. We have also heard the learned Advocates for the respective parties and considered their submissions to the best of our wit and wisdom.

According to the submissions of the learned Advocate for the accused-petitioner, as per averment of the FIR, it is clear that the accused-petitioner had no intention to commit the murder which was done on a sudden provocation and as such, the case is culpable homicide not amounting to murder; the accused-petitioner is a women aged about 25 years and she was arrested on 08.04.2022 and as per provision of Section 497 of the Code of Criminal Procedure, the accused-petitioner may be enlarged on bail; the accused-petitioner has 3 minor children including one sucking baby as it is evident from FIR and police forwarding and she is in custody for about 1 year 7 months and there is no early chance of conclusion of the trial.

Having considered all the facts and circumstances of the case, and the submissions advanced by the

respective parties, we find merit in this Rule and accordingly, we are inclined to enlarge the accused-petitioner on bail making the Rule absolute.

**Consequently, the Rule is made absolute.**

Let the accused petitioner **Most. Sajeda Begum wife of Sayedur Rahman**, be enlarged on bail in above mentioned case till conclusion of trial of the case if any on furnishing adequate bail bond to the satisfaction of the learned Additional Sessions Judge, 4<sup>th</sup> Court, Cox's Bazar.

However, the learned judge of the court below shall be at liberty to cancel the bail of the accused-petitioner if she misuses the privilege of bail in any manner.

The accused-petitioner is directed to provide all sorts of co-operation and assistance to the Investigating Officer if required.

Let a copy of this judgment and order be communicated to the learned judge of the concerned court below, forthwith.

**Kazi Ebadoth Hossain, J:**

I agree.