

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

Present:

Mr. Justice S M Kuddus Zaman

And

Mr. Justice Md. Ali Reza

Criminal Miscellaneous Case No.11109 of 2023

Abul Kashem

.... Accused-Petitioner

-Versus-

The State

.... Opposite Party

Mr. Das Tapon Kumar, Advocate

.... For the petitioner.

Mr. Noor Us Sadik Chowdhury, D.A.G. with

Ms. Farhana Afroze Runa, A.A.G.

Mr. Md. Abdul Aziz Masud, A.A.G.

Mr. Md. Shamim Khan, A.A.G.

.... For the State.

Heard and Judgment on 19.03.2024

S M Kuddus Zaman, J:

On an application under section 498 of the Code of Criminal Procedure 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 Session Case No.403 of 2022 arising out of

Kutubdia Police Station Case No.15 dated 23.04.2014 corresponding to G.R. Case No.41 of 2014 under Sections 302/34 of the Penal Code, now pending in the Court of learned Additional Session Judge, Court No.03, Cox's Bazar and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts in short are that victim Bashini, a pregnant woman was brutally murdered on 22.04.2014 by unknown accused persons. Petitioner Abul Kashem was arrested by police on suspicion and he made a confession under Section 164 of the Code of Criminal Procedure to a Judicial Magistrate confessing to have participated in the commission of murder of above victim.

Mr. Das Tapon Kumar, learned Advocate for the petitioner Abul Kashem submits that the petitioner is in custody since 17.07.2014 but till prosecution witness has been examined. Three co-accused persons namely Sattar, Mahbub Bellal and Jamal Hossain who stand on the same footing like the petitioner have been granted bail earlier.

Mr. Noor Us Sadik Chowdhury, learned Deputy Attorney General for the State raises objection against granting of bail to the petitioner at this point of time.

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

In this case under Sections 302/34 of the Penal Code a pregnant woman namely Bashini was murdered. The petitioner was not suspected in this case but he has confessed to have participated in the commission of above murder of victim Bashini. But it turns out from the record that the petitioner was arrested on 17.07.29014 but till date not a single prosecution witness has been examined.

On consideration of above materials on record we find substance in this application under Section 498 of the Code of Criminal Procedure and the Rule issued in this connection deserves to be made absolute.

In the result, the Rule is made absolute.

Let accused-petitioner Abul Kashem, son of late Rashed @ Loishya @ Ramu Miah be enlarged on bail subject to furnishing bail bond to the satisfaction of the learned Additional Session Judge, 3rd Court, Cox's Bazar.

The learned Judge of the Court below is at liberty to cancel the bail of the accused-petitioner if he misuses the privilege of bail in any manner whatsoever.

Communicate this judgment and order to the Court concerned at once.

Md. Ali Reza, J:

I agree.

MD. MASUDUR RAHMAN
BENCH OFFICER