

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

Present:

Mr. Justice Md. Khairul Alam
And
Mr. Justice Md. Sagir Hossain

Criminal Miscellaneous Case No. 72116 of 2025.

Justice ABM Khairul Haque.

.....Petitioner.

-Versus-

The State.

..... Opposite party.

Mr. Mansurul Haque Chowdhury, with

Ms. Sara Hossain,

Mr. Sayed Ahmed Raza,

Mr. Md. Jahangir Hossain, Advocates

..... For the petitioner.

Ms. Nahid Hossain, with

Mr. Md. Akhtaruzzaman

Mr. Md. Zahirul Islam Sumon and

Mr. Abdullah Al Mahmud, DAGs

..... For the State.

**Heard on 04.03.2026 and
Judgment on: 08.03.2026.**

Md. Khairul Alam, J:

This Rule under section 498 of the Code of Criminal Procedure was issued at the instance of the petitioner, Justice ABM Khairul Haque, calling upon the opposite party to show cause as to why the petitioner should not be enlarged on bail in

connection with Jatrabari Police Station Case No. 25 dated 06.07.2025, corresponding to G.R. Case No. 633 of 2025, under sections 143/302/149/109/114/34 of the Penal Code, 1860, now pending in the Court of the Chief Metropolitan Magistrate, Dhaka, and/or such other or further order or orders be passed as to this Court may deem fit and proper.

The facts relevant for disposal of the present Rule, as appear from the materials on record, are that on 06.07.2025, one Md. Alauddin, as informant, lodged a First Information Report (F.I.R.) with Jatrabari Police Station implicating as many as 467 named individuals along with approximately 1000-2000 unnamed persons, including the present petitioner at serial No. 44, alleging inter alia, that on 18.07.2024 the victim, Md. Abdul Kaiyum Ahad, son of the informant, participated in a procession organized under the banner of the “Anti-Discrimination Student Movement”, demanding the resignation of the then Government. On that day at about 18:00 hours, while the procession was stationed in front of Kajla Police Box under Jatrabari Police Station, the activists of the Bangladesh Awami League, along with members of the law-enforcing agencies, allegedly acting in furtherance of a conspiracy

and pursuant to the direction of the present petitioner and others, attacked the processionists with various deadly weapons. During the alleged incident, the informant's son, Md. Abdul Kaiyum Ahad sustained bullet injuries and was immediately taken to Salman Hospital and Diagnostic Ltd., Donia, Jatrabari, where the physician on duty declared him dead. On the basis of the said allegation, Jatrabari Police Station Case No. 25 dated 06.07.2025 under sections 143/302/149/109/114/34 of the Penal Code, 1860 was started, giving rise to G.R. Case No. 633 of 2025, and the matter is presently under investigation.

On 24.07.2025, the petitioner was arrested in connection with the present case and was sent to custody. Subsequently, his prayer for bail was rejected by the learned Metropolitan Sessions Judge, Dhaka, by order dated 16.09.2025 passed in Criminal Miscellaneous Case No. 12609 of 2025.

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

Mr. Mansurul Haque Chowdhury, the learned Senior Advocate appearing on behalf of the petitioner, submits that although the alleged occurrence took place on 18.07.2024, the

F.I.R. was lodged nearly one year thereafter on 06.07.2025, implicating as many as 467 persons along with a large number of unnamed accused placing the petitioner at serial No. 44, yet no direct overt act has been attributed to him in the F.I.R. or in the materials placed before this Court. Drawing our attention to the advanced age of the petitioner, who is now about 81 years old, the learned Advocate submits that the petitioner is suffering from various serious ailments including ischaemic heart disease with a recent heart attack, chronic kidney disease, bronchial asthma, dementia, cervical spondylosis, and other age-related complications, and that his continued detention may seriously jeopardize his health condition. The learned Advocate further submits that the petitioner, being the former Chief Justice of Bangladesh, has a permanent place of residence and deep roots in society, and therefore, there is no likelihood of his absconding or interfering with the course of investigation.

On the other hand, Mr. Md. Akhtaruzzaman, the learned Deputy Attorney-General appearing for the State, opposes the Rule and submits that the investigation of the case is still in progress and that if the petitioner is enlarged on bail at this stage,

there remains the possibility of his interfering with the investigation and tampering with evidence. He further submits that the alleged occurrence took place in connection with the “Anti-Discrimination Student Movement”, and considering the gravity and sensitivity of the allegation, the petitioner does not deserve to be enlarged on bail at this stage.

We have heard the learned Advocates for the respective parties and have perused the application together with the materials available on record.

It appears from the impugned order that the learned Metropolitan Sessions Judge rejected the prayer for bail mainly on the ground that the investigation of the case was continuing. The learned Deputy Attorney-General has also reiterated the same ground before this Court. It is, however, evident from the record that although the F.I.R. was lodged on 06.07.2025, no police report has yet been submitted. The petitioner has been in custody since 24.07.2025.

While it is true that investigation lies within the exclusive domain of the investigating agency, the prolonged detention of an accused person without submission of a police report is also a

matter which the Court cannot overlook while considering the prayer for bail. From the materials placed before us, we do not find any direct overt act attributed to the petitioner. Furthermore, there is no tangible material on record to substantiate the apprehension expressed by the learned Deputy Attorney-General that the petitioner, if released on bail, would interfere with the investigation or tamper with evidence, nor do we find any material suggesting the likelihood of the petitioner absconding. It further appears that the petitioner is now about 81 years of age and is suffering from several serious ailments including ischaemic heart disease, chronic kidney disease, bronchial asthma, dementia and cervical spondylosis.

In the case of *Shafik Rahman vs. The State*, reported in 68 DLR (AD) 372, the Appellate Division observed that bail should not be withheld as a measure of punishment, and that the age and health condition of an accused person are relevant considerations in the matter of granting bail in view of the proviso to sub-section (1) of section 497 of the Code of Criminal Procedure.

Having considered the facts and circumstances of the case, particularly the length of detention, the absence of direct overt act

against the petitioner with the occurrence, the advanced age and health condition of the petitioner, and the principle laid down by the Appellate Division, we are of the view that the petitioner has made out a case for bail.

Accordingly, the Rule is made absolute.

The petitioner, Justice ABM Khairul Haque, son of late Rafiqul Haque, be enlarged on bail till disposal of the trial, upon furnishing bail bond to the satisfaction of the learned Chief Metropolitan Magistrate, Dhaka.

However, the learned Court below shall remain at liberty to cancel the bail of the petitioner if he misuses the privilege of bail in any manner whatsoever.

Let this order be communicated to the concerned Court forthwith.

Md. Sagir Hossain, J.

I agree

Kashem, B.O