

**S.T – 03(09)/2023**

**CIS 307 of 2022**

**Order No.04**

**dated 11/10/2023**

Today's date is fixed for bail hearing in respect of the UTP Khaleq Molla.

Ld. Defence Counsel and Ld. P.P in charge are present.

Record is taken up for hearing on the bail application dt. 09/10/2023.

Heard Both sides.

Ld. Advocate for the accused in support of the bail application submitted that the best evidence in the record has already come inasmuch as, the prosecution has already examined the son and daughter of the accused as P.W – 1 and 2 and in their evidence they stated nothing against the accused person. He further submitted that the prosecution's allegation against the accused/UTP is, commission of murder of his wife at his own house but the evidence of P.W – 1 and 2 has destroyed such case. He urged that the best evidence being already on record and disclosing no incriminating material against the custody accused/UTP, Khaleq Molla, there is no need of keeping him in custody any more. He submitted that the accused shall abide by each and every direction of this court if imposed as preconditions for an order of bail and he shall not any how tamper the prosecution witnesses.

Accordingly, Ld. Defence counsel prayed for bail for the custody accused/UTP, Khaleq Molla on any condition whatsoever.

Id. P.P. In charge while raising objection submitted that the charge against the accused is very severe in nature and there are lot of other witnesses to be examined by the prosecution. He accordingly prayed for passing necessary order for the rejection of the bail petition.

As a matter of fact the accused Khaleq Molla has all along been in custody since the stage of investigation and on several occasions his bail prayers were rejected, not only by this court after the case was transferred to this court, but also by the court of the Ld. Addl. Sessions Judge, D. Harbour, after commitment of the case. Be that as it may, those rejections were made before the matter entered the stage of trial. Now, that the trial has already begun and two vital witnesses having been examined, the instant bail application has come up. Undoubtedly, the the instant bail application has been filed by the accused based on the evidence of P.W – 1 and P.W – 2 who being the son/defacto complainant and daughter of the accused/UTP did not corroborate the prosecution case and made some statements adverse to the interest of prosecution. There is no doubt that the evidence of P.W – 1 and 2 did not support of the prosecution case but it

will be too early to say that best evidence has already come on record. The F.I.R

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story does not say that the defacto complainant/P.W – 1 was an eye witness of the alleged murder. Thus, his evidence under any circumstances can not be said to be best evidence. Same is the situation with the P.W – 2. Therefore, this court has no occasion to say that it has already got hold of the best evidence on record. There are still so many witnesses remaining whose evidence are yet to be recorded and as such the court is not inclined to grant bail to the accused at this crucial stage of the trial. Persistence of apprehension of tampering of prosecution witness still being in existence, question of granting bail to the accused, does not arise at all. The bail petition filed on behalf of the UTP, Khaleq Molla therefore, deserves to be refused at this stage.

**The application for bail filed on behalf of the UTP, Khaleq Molla, is hereby considered and rejected.**

To date for evidence as per schedule.

**Additional Sessions Judge  
2<sup>nd</sup> Fast Track Court, Diamond Harbour**