

GAHC010021832023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. :I.A.(CrI.)/101/2023

SAIDULLAH AND ANR.
S/O BANSER ALI
VILL.- BHUTPUKHURI
P.S.- KHARUPETIA
IN THE DISTRICT OF DARRANG
ASSAM.
2: RASHIDA BEGUM
D/O JABER ALI

VILL.- BHUTPUKHURI

P.S.- KHARUPETIA
IN THE DISTRICT OF DARRANG
ASSAM.
VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY THE LEARNED P.P.
ASSAM.

2:ABUL KASHEM SEIKH
S/O ABDUL MAZID

VILL.- NAGAJAN

P.O. AND P.S.- KHARUPETIA
DIST.- DARRANG
ASSAM.

Advocate for : MR A W AMAN

Advocate for : PP

ASSAM appearing for THE STATE OF ASSAM AND ANR.

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

15.02.2023

Heard Mr. S. Nawaz, learned counsel for the applicants. Also heard P. Borthakur, learned Public Prosecutor representing the State respondent.

This application is filed for suspension of order for payment of compensation and for allowing the applicants to remain on bail during the pendency of the Revision Petition challenging the impugned judgment & order dated 07.12.2022, passed by the learned Sessions Judge, Darrang, Mangaldai in Criminal Appeal No.4/2021 upholding the conviction of the applicants vide the impugned judgment dated 05.03.2021, passed by the learned Judicial Magistrate First Class, Darrang, Mangaldai in C.R. Case No.624/2014, by setting aside the conviction of the applicants along with Ayub Ali Taibur and Noor Mohammad, registered under Sections 419/34 of the Indian Penal Code and released them on probation under Section 4 of the Probation of Offenders Act and also directed them to pay Rs. 3000/- each as compensation under Section 5 of the Probation of Offender Act.

It is submitted by the learned counsel for the applicants, Mr. S. Nawaz, that the present Criminal Revision Petition, i.e. CrI.Rev.P./66/2023, has been preferred against the Judgment & order dated 07.12.2022, passed by the learned Sessions Judge, Darrang, Mangaldai in Criminal Appeal No.04/2021, and the Judgment & order dated 05.03.2021, passed by the learned Judicial Magistrate First Class, Darrang, Mangaldai in C.R. Case No.624/2014. The learned Trial Courts passed the order by relying on the statement recorded

under Section 202 Cr.P.C. and the Status report by convicting the applicants without appreciating the materials on record in its true perspective and had passed the impugned judgment and order mechanically. The learned Trial Courts committed material irregularity and illegality and has passed the impugned judgments and orders which are likely to be set aside and quashed by this Court.

The grounds which are taken in the Criminal Revision petition are the good grounds and the applicants genuinely believe that there is every possibility of allowing the revision petition.

Accordingly, the learned Advocate appearing on behalf of the applicants prayed to suspend the direction to pay compensation under Section 5 of the Probation of Offenders Act and allow the applicants to remain on bail during the pendency of the Criminal Revision Petition.

Considering the submission of the learned counsel for both the sides and also considering the entire circumstance of the case, the prayer for suspension of direction to pay compensation under Section 5 of the Probation of Offenders Act is allowed and accordingly, the applicants are allowed to remain on previous bail till disposal of the connected Criminal Revision Petition, i.e. Crl.Rev.P./66/2023.

With the above observation, this interlocutory application stands dispose off.

JUDGE

Comparing Assistant