

GAHC010046772023



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

Case No. : I.A.(CrI.)/174/2023

JIBUL HUSSAIN MAZUMDER @ MUSTAFA AHMED MAZUMDER
S/O MD. AFTAB UDDIN MAZUMDER @ BARIK MASTER, R/O
BANDUKMARA R/A, P.S.- HAILAKANDI, DIST.- HAILAKANDI (ASSAM).

VERSUS

THE STATE OF ASSAM AND ANR.
TO BE REP. BY THE P.P., ASSAM.

2:MD. NAZRUL ISLAM MAZUMDER
S/O LATE AKMAL ALI MAZUMDER

R/O BANDUKMARA R/A

P.S.- HAILAKANDI

DIST.- HAILAKANDI (ASSAM)

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

Linked Case : CrI.A./79/2023

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S/O MD. AFTAB UDDIN MAZUMDER @ BARIK MASTER

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Advocate for : MR H R A CHOUDHURY

Advocate for : PP

ASSAM appearing for THE STATE OF ASSAM AND ANR.

BEFORE

THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
ORDER

16.08.2023

Heard Mr. HRA Choudhury, learned Senior counsel assisted by Mr. A Ahmed, learned counsel for the appellant/ applicant.

This is an application under Section 389 of the Cr.P.C. for suspension of sentence dated 22.02.2023 passed by the learned Additional Sessions Judge, Hailakandi in Sessions Case No. 23/2019 sentencing him to suffer rigorous imprisonment for five years and to pay fine of Rs. 5,000/- in default to suffer imprisonment for two months for the offence under Section 366 IPC and rigorous imprisonment for ten years and fine of Rs. 5,000/- under Section 376 IPC in default of payment of fine to suffer simple imprisonment for two months and to release the applicant on bail during the pendency of the appeal.

The learned Additional PP has seriously objected to the grant of the bail inasmuch as he argues that the statement of the victim was very consistent all throughout inasmuch as no other evidence was required in view of such trustworthy deposition of the victim.

Perused the statement of the witnesses including the victim lady and the evidence of the Doctor.

On perusal, it reveals that the victim was major and on further examination of material it seems that the relation was a consenting relation.

Considered the submission of the learned counsel for both the parties.

Considering the material more particularly medical evidence and the contradiction in the statements of the witnesses including the victim, this court is of the considered opinion that the applicant has been able to make out a case for grant of bail during the pendency of the appeal.

Accordingly, it is directed that the applicant be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety in the like amount to the satisfaction of the learned Additional Sessions Judge, Hailakandi.

While parting with the record, it is made clear that the observation made in this application is only for the purpose of bail and shall not be treated as any determination on the merit of the main case.

IA stands disposed of.

JUDGE

Comparing Assistant