

GAHC010074022020



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

Case No. : I.A.(CrI.)/305/2020

SARLONGRI TERANG AND ANR
S/O- SRI HARNATH TERANG
VILL- PHONGLUNGSO
P.S. DIPHU
DIST.- KARBI ANGLONG
ASSAM
PIN- 782460

2: BINONG TERANG
S/O- SRI JOYSING TERANG
VILL- COUNCIL COLONY
WARD NO. 6
P.S. DIPHU
DIST.- KARBI ANGLONG
ASSAM
PIN- 782460
VERSUS

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

2:HAREN CHANDRA SAIKIA
ADVOCATE
S/O- SRI CHANDRA KT. SAIKIA
DIPHU LAW COLLEGE COMPAUS
DIPHU- 782460
PRESENT ADDRESS- SRI HAREN CHANDRA SAIKIA
ADVOCATE
R/O- CHAKIAL GAON
P.O. CHAKIAL GAON
P.S. TITABOR
DIST.- JORHAT

ASSAM
PIN- 785632

Advocate for : MR. M SARANIA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MRS. JUSTICE MARLI VANKUNG

ORDER

Date : 01.08.2023
(M. Zonthankhuma, J)

Heard Mr. M. Sarania, learned counsel for the applicants and Ms. S. Jahan, learned Additional Public Prosecutor. Also heard Mr. A.K. Hussain, learned counsel for the informant/respondent no. 2.

This is an application under Section 389 Cr.P.C. for suspending the sentence passed pursuant to the impugned judgment dated 24.02.2020 by the court of learned Sessions Judge, Diphu, Karbi Anglong in Sessions Case no. 59/2018, by which the applicants along with 10 others were convicted under Sections 147/341/323/302 IPC read with Section 149 IPC.

The applicants' counsel submits that one of the applicants' mother is a cancer patient and being a single child has to look after his mother. He also submits that the applicants had just turned 18 years when the incident occurred and as they have been in custody for a long time, they should be released on bail. He also submits that the evidence does not show that the applicants could have been convicted under Section 302 IPC read with Section 149 IPC and as such, the applicants could not have been saddled with the provisions of Section 149 IPC. He also submits that it is unlikely that the witnesses could have

identified the applicants 6 [six] years after the incident. He also submits that the testimony of the Prosecution Witness No. 18 and Prosecution Witness No. 19 does not show the involvement of the applicants on the assault allegedly made on the deceased. He accordingly submits that the sentence should be suspended and the applicants should be allowed to go on bail.

Ms. S. Jahan, learned Additional Public Prosecutor and Mr. A.K. Hussain, learned counsel for the informant/respondent no. 2 submit that the evidence of P.W. 93 and P.W. 110 clearly shows that the applicants have been identified by the prosecution witnesses, amongst the number of persons, who had assaulted the deceased prior to his death. As such the proof of involvement of the applicants having been recorded in the testimony of the above witnesses, the bail application should not be allowed.

In view of the submissions made by the learned counsel for the parties and on perusing the testimonies of P.W. 93 and P.W. 110, we find that the P.W. 93 and P.W. 110 have categorically named the applicants herein as the persons who had assaulted the deceased, who had subsequently died. In view of the above reason, we are not inclined to suspend the sentence at this stage. The bail petition is consequently dismissed.

I.A. is accordingly disposed of.

JUDGE

JUDGE

Comparing Assistant