

GAHC010074642023



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

Case No. : I.A.(CrI.)/285/2023

NAZRUL RAHMAN
S/O LATE SIDDIK ALI,
R/O SANTAK 107 GRANT,
P.S.- BIHUBOR,
DIST.- SAVASAGAR, PIN- 785687, ASSAM.

VERSUS

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

2:REKHA PATNAYAK

W/O GOPAL PATNAYAK
R/O OUGURIJAN
MADRASIGHAT
P.S.- BIHUBOR
DIST.- SIVASAGAR
PIN- 785687
ASSAM

Advocate for the Petitioner : MR. P DUTTA

Advocate for the Respondent : PP, ASSAM

Linked Case : CrI.A./49/2023

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ASSAM.

Advocate for : MR. P DUTTA

Advocate for : PP

ASSAM appearing for THE STATE OF ASSAM AND ANR.

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 24.05.2023

Heard Mr. P. Dutta, learned counsel for the applicant/appellant and Mr. P. Barthakur, learned Additional Public Prosecutor for the State of Assam.

2. This interlocutory application under Section 389 of the Code of Criminal

Procedure, 1973, is filed for suspension of sentence and grant of bail to the applicant/accused, namely, Nazrul Rahman, who has been convicted by the learned Additional Sessions Judge-cum-Special Judge(POCSO), Sivasagar, in Special(POCSO) Case No. 19/2022, vide Judgment and Order dated 11.01.2023, and sentenced to undergo Rigorous Imprisonment for 4 (four) years with a fine of Rs.5,000/-, in default, simple imprisonment for 3(three) months, for the offence under Section 8 of POCSO Act.

3. It is submitted by the learned counsel for the applicant/accused that he has been detained in custody since the date of delivery of judgment. The allegation against the accused/applicant is that he committed bad acts upon the informant's minor daughter and subsequently, a case was registered being Bihubor P.S. Case No. 01/2022 under Sections 276(3)/511 IPC r/w 8 of POCSO Act. However, as a result of which, he has been convicted. It is also submitted that the victim had refused to do medical examination however, it would create a serious doubt of the case of the prosecution and the applicant is entitled to get benefit of doubt. He further stated that there is every possibility of acquittal in the case. Therefore, the applicant may be enlarged on bail during pendency of the appeal.

4. On the other hand, Mr. Barthakur, learned Additional Public Prosecutor has raised no objection to the prayer of the applicant/accused, for releasing him on bail during the pendency of the appeal.

5. Considering the submissions made by the learned counsel for the parties as well as the documents annexed with the application, the accused/applicant, namely, Nazrul Rahman is granted bail. Accordingly, he shall be released on bail in connection with Special(POCSO) Case No. 19/2022, on furnishing bail bonds of Rs. 30,000/- (Rupees Thirty Thousand Only) with two suitable sureties of the like amount, to the satisfaction of the learned Additional Sessions Judge-cum-Special Judge(POCSO), Sivasagar, on conditions to be imposed by the learned trial court.

6. The impugned judgment and order(s) are also stayed until disposal of the connected appeal.
7. This interlocutory application stands disposed of accordingly.
8. The connected appeal be listed in due course.

JUDGE

Comparing Assistant