

GAHC010111412023



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

Case No. : Crl.A./178/2023

AMAN TIRKEY
S/O SANTOSH TRIKEY,
VILL.- BETALI T.E LINE 8,
P.O. AND P.S.- MAZBAT,
DIST.- UDALGURI, ASSAM, PIN- 784507.

VERSUS

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

2:SATRUGHAN ROBI DAS
S/O LT. SADHU ROBI DAS

VILL.- BETALI T.E LINE 8

P.O. AND P.S.- MAZBAT

DIST.- UDALGURI
ASSAM
PIN- 784114

Advocate for the Petitioner : MR. S CHAUHAN

Advocate for the Respondent : PP, ASSAM

Linked Case : I.A.(Crl.)/429/2023

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Advocate for : MR. S CHAUHAN
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 26.05.2023

Heard Mr. S. Chauhan, 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, Aman Tirkey, who has been convicted by the learned Special Judge, Udalguri, in Special(POCSO) Case No. 41/2018, vide Judgment and Order dated 29.04.2023, and sentenced to undergo Simple Imprisonment for 3(three) years with a fine of Rs.2,000/-, in default, simple imprisonment for 3(three) months, for the offence under Section 8 of POCSO Act, 2012.

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. He further submits that initially the case was registered under Section 12 of POCSO Act and subsequently, charge was framed under Section 8 of POCSO Act. However, as a result of which, he has been convicted. There is no allegation against the applicant/accused regarding committing of such offence which falls under the provision of Section 8 of POCSO Act. 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. I have considered the submissions made by the learned counsel for the parties as well as the statement of the victim who had stated that the applicant/accused tried to commit such offence as alleged in the FIR.

6. In view of above, the accused/applicant, namely, Aman Tirkey is granted bail. Accordingly, he shall be released on bail in connection with Special(POCSO) Case No. 41/2018, 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 Special Judge(POCSO), Udalguri, 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