

GAHC010143932022



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

Case No. : I.A.(CrI.)/372/2022

MITHUN BISWAS
S/O SRI KHETRA MOHAN BISWAS
RESIDENT OF VILLAGE SIRAJULI PATHAR, PS DHEKIAJULI, DIST
SONITPUR, ASSAM 784110

VERSUS

THE STATE OF ASSAM AND ANR.
REPRESENTED BY PP ASSAM

2:SMTI BHARATI DAS

W/O SRI SANKAR DAS
RESIDENT OF VILLAGE SIRAJULI PATHAR
PS DHEKIAJULI
DIST SONITPUR
ASSAM 78411

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

06.06.2023

Heard Mr S C Biswas, learned counsel for the applicant/appellant and Mr K K Das,

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/appellant, namely, Sri Mithun Biswas who has been convicted by the learned Additional Sessions Judge (FTC), Sonitpur, Tezpur in Sessions Case No. 180 of 2019, vide Judgment and Order dated 02.07.2022, and sentenced to undergo Rigorous Imprisonment for a term of 7 (seven) years and to pay a fine of Rs. 30,000/-, for the offence under Section 376 IPC and further sentenced to undergo Simple Imprisonment for 6 (six) months, for the offence under Section 448 IPC and also to undergo SI for 6 (six) months under Section 506 IPC.

3. The allegation against the applicant/ appellant is that while the victim was alone at her residence, the applicant/appellant taking advantage of her loneliness trespassed into her room and forcefully committed sexual intercourse with her. Thereafter, on raising alarm, the applicant/appellant gagged her mouth and tried to kill her by pressing her throat and threatened her with dire consequences, if she disclosed the fact of rape to anybody else.

4. It is submitted by the learned counsel for the applicant/ appellant that the applicant/appellant has been detained in custody since the date of delivery of Judgment. It is further submitted that there is every chance of acquittal of the applicant/accused appellant in the case. Therefore, the applicant may be enlarged on bail during pendency of the appeal.

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

6. Considering the submissions made by the learned counsel for the parties as well as the documents annexed with the application, the applicant/accused appellant, namely,

Sri Mithun Biswas, is granted bail. Accordingly, he shall be released on bail in connection with Sessions Case No. 180/2019, on furnishing bail bonds of Rs. 20,000/- (Rupees Twenty Thousand Only) with one surety of the like amount, to the satisfaction of the learned Additional Sessions Judge (FTC), Sonitpur, Tezpur, on conditions to be imposed by the learned Court below.

7. The impugned judgment and order(s) is also stayed until disposal of the connected appeal.

8. This interlocutory application stands disposed of accordingly.

JUDGE

Comparing Assistant