

GAHC010146092022



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

I.A.(Crl.)/397/2022
In Crl. Appeal No. 166 of 2022

HASEM ALI
S/O REFED ALI

RESIDENT OF VILLAGE GAROJAN
PS LAKHIPUR
DIST GOALPARA
ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for : MR. M KHAN
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

17.01.2023

Heard Mr M Khan, learned counsel for the applicant/appellant and Mr P S Lahkar,

learned Additional Public Prosecutor for the State of Assam.

2. This is an application filed by the applicant/appellant under Section 389 of the Code of Criminal Procedure, 1973, praying for suspension vide Judgment and Order dated 07.06.2022, passed by the learned Sessions Judge, Goalpara, in Sessions Case No. 43/2018 [corresponding to GR Case No. 493/2014), convicting the appellant to undergo Rigorous Imprisonment for 5 (five) years and to pay fine of Rs. 3,000/-, in default, Simple Imprisonment for 6 (six) months, under Section 365 IPC, and for releasing the accused/appellant on bail during pendency of the criminal appeal.

3. It is submitted by the learned counsel for the petitioner that there are lots of contradictions in the statements of the victim and the informant, recorded by the Investigating Officer under Section 161 CrPC and by the learned Magistrate under Section 164 CrPC and while deposed before the Court. The learned trial Court did not consider the matter and convicted the accused with an uncorroborated evidence of the witnesses.

4. It is further submitted that there is every possibility of the applicant/appellant to be acquitted in this case and as such, for the interest of justice and pending disposal of appeal, accused may be released on bail.

5. On the other hand, learned Additional Public Prosecutor has made no objection on the prayer of the petitioner.

6. I have gone through the record of Sessions Case No. 43 of 2018, as well as the evidence of the witnesses.

7. It appears that the accused was on bail during the trial and he was regularly attending the Court. It is also the submission of the learned counsel for the petitioner that the accused would never misuse his liberty if bail is granted to him. As he is a local resident, there is no chance of his absconding.

8. 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, Hasem Ali, is granted bail. Accordingly, he shall be released on bail in connection with Sessions Case No. 43 of 2018, on his furnishing bail bond of Rs. 30,000/- (Rupees Thirty Thousand Only) with two suitable sureties of the like amount, to the satisfaction of the learned Sessions Judge, Goalpara, on conditions to be imposed by the learned Court below.

9. The impugned judgment and order is also stayed until disposal of the connected appeal.

10. The connected appeal be listed in due course.

11. Interlocutory Application stands disposed of.

JUDGE

Comparing Assistant