

GAHC010168922023



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

Case No. : I.A.(Crl.)/667/2023

BIPUL DEY,
S/O- LATE ANIL DEY, R/O- VILL.- SUKANTA PATH, WARD NO. 2, P.S.
LANKA, DIST.- HOJAI.

2: ACHINTA DEY
S/O- LATE ANIL DEY
R/O- VILL.- SUKANTA PATH
WARD NO. 2
P.S. LANKA
DIST.- HOJAI.

3: KRISHNA DEY
S/O- LATE ANIL DEY
R/O- VILL.- SUKANTA PATH
WARD NO. 2
P.S. LANKA
DIST.- HOJAI.

4: SRI PRANAB ASHISH DUTTA @ MUNNA
S/O- SRI HEMENDRA DUTTA
R/O- RANGMOHOLA
P.S. LANKA
DIST.- HOJAI

VERSUS

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

2: SRI PAPPU DEY
S/O- LATE PANNALAL DEY
R/O- WARD NO. 9

NETAJI ROAD
LANKA TOWN UNDER LANKA POLICE STATION
IN THE DISTRICT OF HOJAI
ASSAM

Advocate for the Petitioner : MR Z KAMAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 03.08.2023

(K.R. Surana, J)

Heard Mr. Z. Kamar, learned senior counsel, assisted by Mr. K.D. Sarma, learned counsel for the applicant. Also heard Ms. A. Begum, learned APP appearing for the State and Mr. A. Bhuyan, learned counsel for the respondent no.2.

2. By filing this interlocutory application under section 389(2) Cr.P.C., the applicant is seeking suspension of sentence for a further period of 2 (two) months on humanitarian ground so as to enable him to provide necessary medical treatment to his minor daughter aged 13 (thirteen) years, who is suffering from Cancer (B-ALL).

3. The learned counsel for the respondent no.2 has opposed the prayer for bail on the ground that the applicant has been regularly moving this Court for bail on the ground of providing medical treatment to his daughter. It has been pointed out that on the previous occasion also, the petitioner had approached the Supreme court of India for grant of bail and that while granting

interim bail to the petitioner, the Supreme Court of India had ordered that on completion of the period of interim bail, the applicant would have to surrender before the jail authorities. It is submitted that the applicant was granted interim bail by this Court by order dated 26.05.2023 and that the applicant was released on the bail on 06.06.2023, but he did not immediately avail the facility of treatment to his daughter at Guwahati. It is submitted that the applicant seeks to take his daughter for treatment at Kolkata, but there is no referral from the cancer hospital at Guwahati for availing such treatment at Kolkata.

4. It appears from the contents of the order dated 26.05.2023 passed by this Court in I.A.(Crl.) 760/2022 that the minor daughter of the petitioner was suffering from "Non-Hodgkins Lymphoma", and by the current medial certificate dated 21.07.2023, issued by the Dr. B. Baruah Cancer Institute, the daughter of the petitioner is diagnosed as "B-ALL", which appears to be as full form of B-Cell Acute Lymphoblastic Leukemia.

5. By referring to Annexure-4 of this interlocutory application, the learned senior counsel for the applicant has submitted that the wife of the petitioner, i.e. the mother of the ailing child, namely, Mrs. Anita Dey is diagnosed with 45% permanent disability orthopaedically handicapped since her childhood.

6. Accordingly, notwithstanding the objection made by the learned senior counsel for the respondent no.2, the Court is inclined to extend the interim bail granted to the petitioner by order dated 26.05.2023 for a further period from 08.08.2023 to 07.09.2023.

7. It is provided that on 08.09.2023, the applicant, namely, Bipul Dey

shall positively surrender before the District Jail, Nagaon and produce the certificate of surrender before this Court.

8. Accordingly, this interlocutory application stands disposed of.

JUDGE

JUDGE

Comparing Assistant