

GAHC010170072023



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

Case No. : I.A.(CrI.)/681/2023

MITHUN RAJBONGSHI,
S/O- SRI GAMBHIR RAJBONGSHI, R/O- VILL.- KALBARI, P.O. AND P.S.
GORESWAR, DIST.- BAKSA, ASSAM, PIN- 781366.

VERSUS

THE STATE OF ASSAM AND ANR.
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:MANESWAR RAJBONGSHI

S/O SRI RAMESH RAJBONGSHI
R/O VILLAGE KOLBARI
PO AND PS GORESWAR
DIST. BAKSA
ASSAM
PIN-78136

Advocate for the Petitioner : MR. A PAUL

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 09.08.2023

Heard Mr. A. Paul, learned counsel for the applicant. Also heard Ms. N. Das,
learned Additional Public Prosecutor for the respondent.

This application under Section 389 of the Code of Criminal Procedure, 1973 has been filed by the applicant for suspension of sentence and to allow the appellant/applicant to go on bail pending disposal of the Criminal Appeal No. 94/2021 wherein the appellant has impugned the judgment and order dated 30.01.2021 passed in Special (POCSO) Case No. 08/2018 by Special Judge, (POCSO), Baksa whereby the appellant was convicted under Section 4 of the POCSO Act, 2012 and was sentenced to suffer rigorous imprisonment for a period of ten years and to pay a fine of Rs.10,000/- and in default of payment of fine to suffer further simple imprisonment for a term of one month.

The learned counsel for the applicant has fairly submitted that earlier also the applicant/appellant approached this Court by filing two interlocutory applications, namely, I.A.(Crl.) No. 199/2021 and I.A.(Crl.) No. 238/2022, both of which were rejected by this Court. It is submitted that the I.A.(Crl.) No. 199/2021 was disposed of by a Co-ordinate Bench of this Court by its order 25.03.2022 wherein after elaborately discussing the contentions raised by learned counsel for both sides.

Similarly, the I.A.(Crl.) No. 238/2022 was disposed of, by order dated 28.09.2022 wherein the Registry was directed to fix the Criminal Appeal No. 94/2021 in the month of November, 2022 for final hearing. Now, learned counsel for the appellant submits that in spite of specific directions of this Court, to list this Criminal Appeal No. 94/2021 in the month of November, 2022, same has not been done and the appellant has been languishing behind the bar. Though, according to learned counsel for the appellant he has good grounds and possibility of getting a judgment of acquittal in this appeal.

On the other hand, learned Additional Public Prosecutor submits that as earlier also, on two occasions, the prayer of appellant to suspend the sentence

as well as conviction and for granting bail to the present appellant was rejected by this Court, this instant interlocutory application does not deserve favourable consideration. However, she also fairly submits that in view of the directions passed earlier by this Court, this Criminal Appeal No. 94/2021 may be expeditiously heard.

Considering the submissions made by learned counsel for the parties, this Interlocutory application is disposed of with an observation that, at this stage, this Court is not inclined to consider the third prayer of suspension of sentence of the appellant/applicant. However, in view of the clear directions passed by this Court in earlier interlocutory application, for early listing of Criminal Appeal No. 94/2021 for expeditiously disposal, the Registry is directed to list the Criminal Appeal No. 94/2021 for hearing on 7th September, 2023.

This interlocutory application is, accordingly, disposed of.

JUDGE

Comparing Assistant