

GAHC010196462023



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

Case No. : Crl.A./328/2023

ASHOK DAS
S/O RAMESWAR DAS,
R/O ALEKJARI, P.S.- CHHAYGAON, DIST.- KAMRUP (R), ASSAM.

VERSUS

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

2:BIJU MALAKAR
W/O ARUP MALAKAR

R/O BARTARI
P.S.- CHHAYGAON
DIST.- KAMRUP (R)
ASSAM

Advocate for the Petitioner : MR. A PARAMANIK

Advocate for the Respondent : PP, ASSAM

Linked Case : I.A.(Crl.)/815/2023

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S/O RAMESWAR DAS
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P.S.- CHHAYGAON, DIST.- KAMRUP ®, ASSAM.

Advocate for : MR. A PARAMANIK

Advocate for : PP

ASSAM appearing for THE STATE OF ASSAM AND ANR.

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 11.09.2023

Heard Mr. A. Paramanik, learned Counsel for the applicant and also heard Mr. D. Das, learned Addl. P.P. for the State respondent.

This Interlocutory application u/s 389 of Cr.P.C. is preferred by applicant, Sri Ashok Das for granting him bail u/s 389 Cr.P.C. It is to be noted herein that the applicant was convicted by the learned Sessions Judge cum Special POCSO Judge, Kamrup, Amingaon in connection with Special POCSO Case No. 49/2021, whereby the applicant was convicted u/s 12 of the POCSO Act and u/s 448 of the IPC and sentenced him to suffer rigorous imprisonment for three years and to pay fine of Rs. 20,000/- with default stipulation u/s 12 of POCSO Act also to suffer simple imprisonment for one year and to pay fine of Rs. 5,000/- with default stipulation u/s 448 IPC and further directed that the sentence on both the court will run consecutively.

Mr Paramanik , learned counsel submits that the applicant was convicted and sentenced u/s 12 of the POCSO Act to suffer rigorous imprisonment for three years and also to pay fine of Rs. 20,000/- with default stipulation and as

such, he is entitled to bail on this count, and also he was convicted and sentenced to suffer simple imprisonment for one year and to pay fine of Rs.5,000/- u/s 448 IPC and on this count also the applicant is entitled to pay. But, the learned court below has directed that sentence on both the count will run concurrently and as such, the total period of conviction came to be four years and as such, the learned court below has refused to grant bail to the applicant and therefore, the applicant has approached this court for granting him bail till disposal of the appeal.

Having heard the submission of learned Advocate of both side, I have gone through the petition and documents placed on record and also perused the impugned judgement and order dated 24.8.2023.

It is not in dispute that the applicant was convicted u/s 12 of POCSO Act and also u/s 448 IPC and sentenced him as aforementioned.

Having heard the learned Advocate for both side and also considering the facts and circumstances on the record, this Court is inclined to allow this petition and accordingly, it is provided that on furnishing a bond of Rs/-50,000/- with one surety of like amount to the satisfaction of learned Special Judge, POCSO, Kamrup, Amingaon, the applicant, Sri Ashok Das shall be released on bail.

In terms of above this I.A stands disposed of.

JUDGE

Comparing Assistant