

GAHC010231172023



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

Case No. : I.A.(Crl.)/1044/2023

NAYAN MALLIK
S/O SRI KARNA MALLIK,
VILL.- BOKAHOLLA T.E GAON, P.S.- TITABOR, DIST.- JORHAT, ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY PUBLIC PROSECUTOR.

2:SARATHI BHUYAN
S/O LT MOTILAL BHUYAN

VILL.- BOKAHOLLA T.E GAON
P.S.- TITABOR
DIST.- JORHAT
PIN- 785630
ASSAM

Advocate for the Petitioner : MS N HASSAN (LEGAL AID COUNSEL)

Advocate for the Respondent : PP, ASSAM

Linked Case :

NAYAN MALLIK

VERSUS

THE STATE OF ASSAM AND ANR. E

Advocate for : MS N HASSAN
Advocate for : appearing for THE STATE OF ASSAM AND ANR. E

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 06-11-2023

Heard Ms. N. Hasan, learned Legal Aid counsel for the applicant and also heard Mr. B. Sarma, learned Addl. P.P. for the State respondent.

This application, u/s 5 of the Limitation Act is preferred by the applicant, namely, Nayan Mallick for condonation of delay of 55 days in preferring the accompanying criminal appeal .

Ms. Hasan, learned Legal Aid counsel for the applicant submits that the applicant stood convicted by the learned Special Judge, Jorhat in Special Case No.42/2022, u/s 448/376(2)(I)IPC and sentenced him to suffer R.I for 10 years and also to pay a fine of Rs.10,000/- with default stipulation, u/s 376(2)(I) IPC and also sentenced to suffer R.I. for one year and also to pay a fine of Rs. 1,000/- with default stipulation u/s 448 IPC.

Ms. Hasan, learned Legal Aid Counsel for the applicant submits that though the judgment was pronounced by the learned Court below on 3.6.2023 and, she was endorsed to conduct this appeal on 26.7.2023, but due to non availability of some documents, including the judgment of the learned Special Judge and the FIR and other related documents, she could not file the appeal within the period of limitation and she has received the said documents on 2.9.2023, and thereafter, she has prepared the appeal and in the meantime, delay of 55 days occurred and said delay is not intentional, rather it is circumstantial and

therefore, it is contended to condone the same.

On the other hand, Mr. B. Sarma, learned Addl. P.P. submits that he has no objection in condoning the delay of 55 days in filing the connected appeal.

Having heard the submission of learned Advocate of both sides, I have gone through the petition and the documents placed on record. In view of the explanation, so forthcoming from the applicant side, delay of 55 days in preferring the accompanying appeal, is found to be not intentional rather it appears to be circumstantial and therefore, this Court is inclined to dispose of this petition by condoning the delay of 55 days in filing the connected Criminal Petition.

In view of above, the I. A stands disposed of.

Registry shall register the Criminal Appeal and list the same before the Court.

JUDGE

Comparing Assistant