

GAHC010240552023



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

Case No. : I.A.(Crl.)/1045/2023

MANTU KUMAR SARMA
S/O LATE HEMODHAR SARMA, R/O VILL NIZ PAKOWA, P.S.-BELSOR, DIST-
NALBARI, ASSAM

VERSUS

JYOTISH SARMA AND ANR
S/O LATE KARUNA KANTA SARMA, R/O VILL-SUNDARIDIA (PACHIM
HATI), P.O. AND P.S.-BARPETA, DIST-BARPETA, ASSAM, PIN-781301

2:THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSA

Advocate for the Petitioner : MR. A GOYAL

Advocate for the Respondent : PP, ASSAM (R2)

Linked Case : Crl.Rev.P./465/2023

MANTU KUMAR SARMA
S/O LATE HEMODHAR SARMA
R/O VILL NIZ PAKOWA
P.S.-BELSOR
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P.O. AND P.S.-BARPETA
DIST-BARPETA
ASSAM
PIN-781301

2:THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR. A GOYAL
Advocate for : PP
ASSAM (R2) appearing for JYOTISH SARMA AND ANR

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 05.12.2023

Heard Mr. A. Goyal, learned counsel for the applicant and Mr. K.K. Das, learned Additional Public Prosecutor for the State of Assam.

2. This interlocutory application under Section 389 of the Code of Criminal Procedure, 1973, is filed for suspension of sentence and grant of bail to the applicant, namely, Mantu Kumar Sarma, wherein the learned Addl. Sessions Judge, Barpeta, upheld the order dated 17.01.2020 passed by learned CJM, Barpeta in N.I. Case No. 33/2018 under Section 138 of N.I. Act, 1881 convicting the applicant to undergo simple imprisonment for 6(six) months and to pay a fine of Rs.5 lakhs.

3. The learned counsel for the applicant has submitted that the applicant had issued two blank cheques as security against the loan. But the learned trial court did not appreciate the evidence in proper perspective as such, the judgment is liable to be set aside. It is also contended that there are lots of infirmities in the impugned judgment and the applicant has good case on merit in succeeding the appeal.

4. In response, the learned Additional Public Prosecutor has admitted that there are some irregularity found in the judgment of the learned trial court and she has no objection if the prayer of the applicant is allowed.

5. I have considered the submissions of learned counsel for the parties.

6. Considering the submissions of learned counsel for the parties as well as the period of sentence, the prayer of the applicant is allowed. The sentence imposed on the applicant in N.I. Case No. 33/2018 and affirmed in Criminal Appeal No. 02/2021, by the learned Addl. Sessions Judge, Barpeta, vide judgment and order dated 31.07.2023 is suspended till disposal of the criminal revision, subject to the following conditions:-

- a) The applicant is directed to be released on bail on his furnishing a bond of Rs. 30,000/- (Rupees Thirty Thousand) only, with one surety of the like amount to the satisfaction of the learned Addl. Sessions Judge, Barpeta.
- b) The applicant shall not indulge in any criminal activities during the period of suspension of sentence.
- c) The applicant shall not leave the jurisdiction of the concerned Court.
- d) It is made clear that this Court has not delved into the merits of the appeal.

7. With the aforesaid observations, this Interlocutory Application stands disposed of.

JUDGE

Comparing Assistant