

GAHC010287022023



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

Case No. : I.A.(Crl.)/1247/2023
In Crl.A./473/2023

MILON HUSSAIN LASKAR @ MD. MILON UDDIN LASKAR
S/O LATE REJAK ALI LASKAR
VILL.- KAPNARPAR, P.O.- KALIBARI BAZAR
P.S.- ALGAPUR, DIST.- HAILAKANDI (ASSAM).

VERSUS

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

2:TAHERA BEGUM LASKAR
W/O MD. IMDADUR RAHMAN LASKAR
VILL.- KAPNARPAR
P.O.- KALIBARI BAZAR, P.S.- ALGAPUR
DIST.- HAILAKANDI (ASSAM), PIN- 788150.

Advocate for : MR M J QUADIR
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

- B E F O R E -

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA
ORDER

20.12.2023

Heard Mr. M.J. Quadir, learned counsel for the applicant. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam

This application under Section 389 read with Section 374(2) of the Code of

Criminal Procedure, 1973 has been filed by the applicant praying for suspension of execution of sentence imposed on the applicant by the judgment and order dated 01.12.2023 passed by the learned Additional Sessions Judge, Hailakandi in Sessions Case No.79/2022 whereby the present applicant was convicted under Section 457 of the Indian Penal Code and was sentenced to undergo Simple Imprisonment for 3(three) years and also to pay fine of Rs.5,000/-, and in default of payment of fine to undergo another Simple Imprisonment for another 3(three) months. The applicant was also convicted under Section 354-A of the Indian Penal Code and was sentenced to undergo Rigorous Imprisonment for 2(two) years.

The applicant has impugned the aforesaid judgment by filing a connected criminal appeal which has been registered as CrI.A. No.473/2023, which is admitted for hearing.

Learned counsel for the applicant has submitted that the learned Trial Court came to the finding of guilt of the present applicant on the basis of evidence of prosecution witness, though the independent prosecution witnesses, namely, PW-3 and PW-4 who are neighbours of the victim where the alleged incident occurred, have not implicated the present applicant.

Learned counsel for the applicant has also submitted that there is every likelihood that the appeal filed by the present applicant impugning the judgment and order passed by the learned Additional Sessions Judge, Hailakandi dated 01.12.2023, may be allowed.

Learned Additional Public Prosecutor, Assam has submitted that this Interlocutory Application may be considered after perusal of LCR.

However, as the copies of the testimony of prosecution witnesses which were recorded during the trial has been annexed along with this Interlocutory

Application, hence, for the purpose of consideration of the instant Interlocutory Application, this Court is of the considered opinion that perusal of the LCR may not be necessary at this stage, more so, as the sentence of conviction imposed on the applicant is only for a limited period of 3(three) years. Considering that a large number of criminal appeals are pending in this Court, there is every likelihood that disposal of the connected criminal appeal may take some time. Therefore, if the sentence imposed on the present applicant is not suspended, there is possibility that the present applicant may be prejudiced in the event of the setting aside of the impugned judgment in the connected appeal.

In view of above, the applicant is allowed to remain on previous bail granted to him by the learned Trial Court by order dated 01.12.2023 in Sessions Case No.79/2022 and the execution of sentence imposed on the present applicant shall remain suspended during the pendency of the connected criminal appeal i.e. CrI.A. No.473/2023.

This Interlocutory Application is accordingly disposed of.

JUDGE

Comparing Assistant