

GAHC010019382024



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

Case No. : I.A.(CrI.)/104/2024

ARNESH HARIZON
S/O SRI PARESH HARIZON,
VILL.- BASHBARI LINE CARRAMORE T.E, P.S.- HARISINGA, DIST.-
UDALGURI, PIN- 784524, ASSAM.

VERSUS

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

2:MARIOM TIGGA
W/O LT BITUL TIGGA
VILL.- BASHBARI LINE CARRAMORE T.E
P.S.- HARISINGA
PIN- 784524 DIST.- UDALGURI
ASSAM

Advocate for the Petitioner : MS N HASSAN (LEGAL AID COUNSEL)
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

05.04.2024

Heard Ms. N. Hassan, learned Legal Aid Counsel for the applicant-appellant and Ms. S.H. Bora, learned Additional Public Prosecutor, Assam for the opposite party no. 1 State of Assam.

The instant interlocutory application under Section 5 of the Limitation Act, 1963 is

preferred seeking condonation of delay of 56 [fifty-six] days, which is stated to have occurred in preferring the connected appeal.

The applicant as the appellant, has preferred the connected appeal under Section 374[2], CrPC against a Judgment and Order dated 30.09.2023 passed in Sessions Case no. 38/2022 by the Court learned Additional Sessions Judge, Udalguri, Assam [the trial court]. By the Judgment and Order dated 30.09.2023, the applicant-appellant has been convicted for the offence under Section 304 Part-II of the Indian Penal Code [IPC] and has been sentenced to undergo rigorous imprisonment for 4 [four] years and to pay a fine of Rs. 4,000/-, in default of payment of fine, to undergo simple imprisonment for 4 [four] months.

In the instant interlocutory application, the applicant has sought to explain the cause of delay of 56 days in paragraph 5 and paragraph 6.

Ms. Bora, learned Additional Public Prosecutor, Assam has submitted that since the applicant has been convicted for the offence under Section 304 Part-II, IPC, the connected appeal may be heard on merits.

Having gone through the grounds averred in paragraph 5 and paragraph 6 of the interlocutory application, this Court is of the considered view that the applicant-appellant has been able to explain the delay of 56 days showing sufficient cause. The Court is also of the view that the connected appeal is required to be heard on merits. Accordingly, the instant interlocutory application seeking condonation of delay of 56 days in preferring the connected appeal is allowed.

Registry to register the connected appeal and thereafter, list the appeal for admission.

JUDGE

Comparing Assistant