

GAHC010023302023



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

Case No. : I.A.(CrI.)/94/2023

DIPON DAS @ ARUN DAS
S/O NIPEN DAS
R/O SIMONA BASTI
UNDER SAMAGURI POLICE STATION
DIST.- NAGAON
ASSAM.

VERSUS

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

2:SAMBHU DAS
S/O LATE SUDHIR DAS
R/O SIMONABASTI
UNDER SAMAGURI POLICE STATION
DIST.- NAGAON
ASSAM.

Advocate for : MR. A TALUKDAR
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

O R D E R

21.08.2024

Heard M. Biswas, learned counsel for the applicant/appellant and Mr. B. Sharma, learned Additional Public Prosecutor, Assam appearing for the

respondent/opposite party No.1. Also heard Mr. B.C. Das, learned counsel appearing for the opposite party/respondent No.2.

2. By the judgment and order dated 23.12.2022, the learned Additional Sessions Judge-cum-Special Judge (POCSO), Nagaon in Special (POCSO) Case No.66(N)/2016, convicted the applicant/appellant under Section 9(m), punishable under Section 10 of the Protection of Children from Sexual Offences Act, 2012 and sentenced him to undergo Rigorous Imprisonment for 07(seven) years with fine of Rs.50,000/- (rupees fifty thousand), in default of payment of fine, to undergo Simple Imprisonment for further 06(six) months, setting off the period of detention already undergone by him against the terms of imprisonment under Section 428 of Cr.P.C.

3. From the impugned judgment itself, it is seen that the applicant/appellant during investigation of the case was taken into custody on 09.06.2016 and later released on bail on 12.08.2016, after a period of 02(two) months and 03(three) days. Thereafter, on passing of the impugned judgment on 23.12.2022, the applicant/appellant was taken into custody and thereafter he is serving the sentence.

4. Aggrieved with the said judgment of conviction and sentence dated 23.12.2022, the applicant/appellant preferred the connected statutory appeal being Criminal Appeal No.40/2023, which was already admitted on 13.02.2023.

5. By this application, the applicant/appellant has prayed for suspension of the sentence imposed upon him by the impugned judgment dated 23.12.2022 passed in Special (POCSO) Case No.66(N)/2016 by the learned Additional Sessions Judge-cum-Special Judge (POCSO) and also prayed for allowing him to go on bail.

6. On perusal of the records of the case, we found that the statement of the victim made under Section 164 Cr.P.C as well as before the learned Trial Court

remained intact without any contradiction.

7. Considering the above, the application of the convicted accused/applicant/appellant is rejected at this stage.

8. Accordingly, the interlocutory application stands dismissed.

JUDGE

Comparing Assistant