

GAHC010029342024



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

Case No. : I.A.(Crl.)/148/2024

SARALA MANDAL
W/O BOLDIP KUMAR,
R/O NO. 1 DONGARGAON, P.S.- TAMULPUR, DIST.- BAKSA.

VERSUS

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

2:JOGENDRA CHANDRA BARMAN
S/O LATE JAMINI KANTA BARMAN
VILL.- BIHANGAPUR (KAWLI)
P.S.- TAMULPUR
DIST.- TAMULPUR

Advocate for the Petitioner : MR. S BISWAS (LEGAL AID COUNSEL)

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 10-04-2024

[Manish Choudhury, J.]

Heard Mr. S.P. Biswas, learned Legal Aid Counsel for the applicant-appellant and Ms. N. Das, learned Additional Public Prosecutor for the respondent State of Assam.

2. The instant interlocutory application has been preferred under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 101 days, which has occurred in preferring the connected appeal. The connected appeal from jail, which is yet to be registered, under Section 383, Code of Criminal Procedure, 1973 ['the CrPC' or 'the Code', for short] is directed against a Judgment and Order dated 11.08.2023 passed by the Court of learned Sessions Judge, Baksa at Musalpur in Sessions Case no. 189/2022. By the said Judgment and Order dated 11.08.2023, the applicant-appellant has been convicted for the offence of murder under Section 302, Indian Penal Code [IPC] and he has been sentenced undergo rigorous imprisonment for life and to pay a fine of Rs. 2,000/-, in default of payment of fine, to undergo simple imprisonment for another 2 [two] months.

3. The learned Legal Aid Counsel has submitted that he has received instructions and the concerned brief to prefer the appeal from the office of the Gauhati High Court Legal Services Committee on 03.01.2024 and the delay of 101 days has occurred in the course of filing the appeal.

4. We have gone through the statements and averments made in Paragraph 3 & 4 of the interlocutory application, wherein the reasons for delay of 101 days have been explained.

5. Ms. Das, learned Additional Public Prosecutor has submitted that since the applicant-appellant has been convicted for the charge of murder, the connected appeal can be heard on merits.

6. Having gone through the reasons explained for the delay in the instant interlocutory application, we are of the considered view that the applicant-appellant has been able to show sufficient cause regarding the period of delay. Accordingly, the instant interlocutory application seeking condonation of delay of 101 days in preferring the connected the appeal is allowed.

7. The Registry to register the connected appeal and list the appeal thereafter for

admission.

JUDGE

JUDGE

Comparing Assistant