

GAHC010030292024



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

Case No. : I.A.(CrI.)/160/2024

UTTAM KONWAR
S/O SRI DAMBARU KONWAR,
R/O MAKUMKILLA, TENGA PATHER, P.S.- MARGHERITA, DIST.- TINSUKIA,
ASSAM.

VERSUS

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

2:KANCHAN DEBNATH
W/O MANIK DEBNATH
R/O MAKUM KILLA
P.S.- MARGHERITA
DIST.- TINSUKIA
ASSAM
PIN- 786187

Advocate for the Petitioner : MR. I A TALUKDAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 19-03-2024

Heard Mr. I.A. Talukdar, learned counsel for the applicant-appellant and Mr. B. Sharma, learned Additional Public Prosecutor for the State/respondent.

2. This is an application under Section 389 Cr.P.C. praying for granting bail by suspending sentence pending appeal to the applicant-appellant against the judgment and order dated 07.06.2023 passed by the learned Additional Sessions Judge-cum-Special Judge, POCSO, Tinsukia in connection with POCSO Case no. 23/2022, whereby the applicant-appellant was convicted under Section 8 of the POCSO Act, 2012 and sentenced to undergo rigorous imprisonment for 4 (four) years and to pay a fine of Rs. 5,000/-, in default of payment of fine, to undergo simple imprisonment for 2 (two) months.

3. Learned counsel for the applicant-appellant has submitted that there is no eye witness to the incident and there are lots of contradiction in the statement of the victim and other witnesses regarding the alleged offence. Learned counsel for the applicant-appellant has also stated that the medical officer did not find any injury on the victim and that whatever was stated by the victim is false and concocted and as such, there is every possibility of acquittal of the applicant-appellant in the case. Considering these aspects, the applicant-appellant be released on bail during pendency of the appeal.

4. On the other hand, Mr. Sharma, learned Additional Public Prosecutor submits that there is sufficient materials against the present applicant-appellant. However, on the basis of sentence imposed on the applicant-appellant, bail may be granted during pendency of the appeal without going into the merits of the case.

5. I have considered the submissions made by the learned counsel for the parties and have also perused the judgment of the trial court.

6. In view of the back ground of the case, this Court is of the view that the prayer of the applicant-appellant may be considered.

7. Accordingly, the applicant-appellant, Uttam Konwar, shall be released on bail suspending the sentence during appeal in connection with POCSO Case no. 23/2022, under Section 8, POCSO Act, subject to the following conditions :

- (i) The applicant shall furnish a bail bond of Rs.30,000/- with one suitable surety of the like amount to the satisfaction of the learned Additional Sessions Judge-cum-Special Judge, POCSO, Tinsukia.
- (ii) The learned Additional Sessions Judge-cum-Special Judge, POCSO, Tinsukia will be at liberty to impose any condition(s) while releasing the applicant on bail.

In view of the above, interlocutory application stands disposed of.

JUDGE

Comparing Assistant