

GAHC010030772024



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

Case No. : I.A.(CrI.)/201/2024

RAJKIARN KHODAL
S/O LT. MONI KHADAL,
VILL.- BHAKAT GAON, P.S.- MOTHURAPUR, DIST.- CHARAIDEO, ASSAM.

VERSUS

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

2:KHAGEN KHODAL
S/O LT. MONI KHADAL
VILL.- BHAKAT GAON
P.S.- MOTHURAPUR
DIST.- CHARAIDEO
ASSAM

Advocate for the Petitioner : MR. B HALDAR (LEGAL AID COUNSEL)

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 01-04-2024

[M. Choudhury, J]

Heard Mr. B. Haldar, learned Legal Aid Counsel for the applicant-appellant and Ms. N. Das, learned Additional Public Prosecutor for the respondent no. 1,

State of Assam.

The instant interlocutory application under Section 5 of the Limitation Act, 1963 is preferred seeking condonation of delay of 119 days, which has occurred in preferring the connected appeal. The applicant as the appellant, has preferred the connected appeal against a Judgment and Order dated 14.08.2023 passed by the learned Sessions Judge, Charaideo in Session (Cha) Case no. 30/2020 whereby the applicant-appellant has been convicted under Section 302, Indian Penal Code. By the said Judgment and Order, the applicant-appellant has been sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 10,000/-, in default of payment of fine, to undergo simple imprisonment for 1 [one] month.

In the instant interlocutory application, the applicant-appellant has sought to explain the delay, which has occurred during the period from 14.08.2023 till 12.12.2023, in paragraph 6 and paragraph 7 of the application.

We have gone through the statements and averments made in paragraph 6 and paragraph 7 of the instant interlocutory application.

On perusal of the reasons explained therein, we are of the considered view that the applicant-appellant has been able to show sufficient cause explaining the delay.

Ms. Das, learned Additional Public Prosecutor has also submitted that the connected appeal may be heard on merits.

In view of the above, we are of the view that the period of delay of 119 days which has occurred in preferring the connected appeal, is required to be

condoned for hearing the appeal on its merits as the applicant-appellant has been convicted under Section 302, IPC and sentenced to undergo rigorous imprisonment for life. Accordingly, the instant interlocutory application is allowed.

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

JUDGE

JUDGE

Comparing Assistant