

GAHC010035012024



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

Case No. : I.A.(Crl.)/222/2024

KARTIK MANDAL
S/O GEDULAL MANDAL, R/O NO. 2 NAYAPARA, P.S. AND DIST.
BONGAIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE PP, ASSAM

2:SMTI ANITA BHOWMIK

W/O- SRI SANU BHOWMIK
RESIDENT OF- NO. 2
NAYAPARA
PS AND DIST- BONGAIGAON
ASSAM

3:SANGITA BHOWMIK

D/O- SRI SANU BHOWMIK
RESIDENT OF- NO. 2
NAYAPARA
PS AND DIST- BONGAIGAON
ASSA

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

Advocate for the Respondent : PP, ASSAM

Linked Case : CRL.A/87/2023

KARTIK MANDAL

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY PP
ASSAM

2:SMTI ANITA BHOWMIK
W/O- SRI SANU BHOWMIK
GOPAL
RESIDENT OF- NO. 2
NAYAPARA
PS AND DIST- BONGAIGAON
ASSAM

Advocate for : MR. S BISWAS

Advocate for : PP

ASSAM appearing for THE STATE OF ASSAM AND 2 ORS

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 15.05.2024

Heard Mr. S. Biswas, learned Legal Aid counsel for the applicant. Mr. R. J. Baruah, learned Public Prosecutor for the State/respondent No.1.

2. This is an application under Section 389 Cr.P.C. praying for granting bail by suspending sentence pending appeal to the applicant in connection with the judgment and order dated 23.03.2023 passed by the learned Special Judge, Bongaigaon, Assam, in connection with Special (P) Case No. 13(BGN)/2021, whereby convicting the accused/applicant under Section 354/354(D) IPC r/w

Section 12 of POCSO Act, 2012 and sentenced him to undergo rigorous imprisonment for 6(six) months and also to pay fine of Rs.5,000/-, in default to undergo simple imprisonment for 15(fifteen) days.

3. The learned counsel for the applicant submits that there are lots of contradictions in the statement of the victim as well as other witnesses. It is also submitted that the learned trial court did not take note of the fact that the sisters of the victim were also present at the time of the alleged incident but they were not made as a witness to the case.

4. It is also submitted that there is every possibility of acquittal of the applicant in the case. Considering these aspects, the applicant be released on bail during pendency of the appeal.

5. On the other hand, Mr. Baruach, learned Additional Public prosecutor submits that he has no objection if the prayer of the applicant is allowed.

6. I have considered the submissions made by the learned counsel for the parties as well as perused the judgment of the learned trial court.

7. Considering the sentence imposed by the learned trial court, without further going into the merit of the case, prayer of the applicant is allowed.

8. Accordingly, the appellant-applicant, named above, shall be released on bail suspending the sentence during appeal in connection with Special (P) Case No. 13(BGN)/2021, under Section 354/354(D) IPC r/w Section 12 of POCSO Act, 2012, subject to the following conditions :

(i) The applicant shall furnish a bail bond of Rs.50,000/- with two

suitable sureties each of the like amount to the satisfaction of the learned Special Judge, Bongaigaon, Assam.

(ii) The learned Special Judge, Bongaigaon, Assam will be at liberty to impose any condition(s) while granting bail to the applicant.

9. Nothing in this order shall be construed as an expression of opinion on the merits of the pending criminal appeal.

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

JUDGE

Comparing Assistant