

GAHC010036652024



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

Case No. : I.A.(CrI.)/241/2024

AJAY BARMAN
S/O SRI ANANDA BARMAN, R/O BONDA COLONY, P.S.- PRAGJYOTISHPUR,
GUWAHATI, DIST.- KAMRUP (METRO), ASSAM.

VERSUS

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

2:RAMESH DEY @ RAMESH CH. DEV
S/O LATE SURENDRA CH. DEY

R/O BONDA COLONY
P.S.- PRAGJYOTISHPUR
GUWAHATI
DIST.- KAMRUP (METRO)
ASSAM
PIN- 781026

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

Linked Case : CrI.A./67/2024

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

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 10.05.2024

Heard Mr. A. Choudhury, learned counsel for the applicant. Mr. D.P. Goswami, 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 against the judgment dated 21.12.2023 passed by the learned Additional Sessions Judge No. 1,

Kamrup(M), Guwahati, Assam, in connection with Sessions Case No. 212/2018, whereby convicting the accused/applicant under Section 436 IPC and sentenced him to undergo rigorous imprisonment for 7(seven) years and to pay a fine of Rs.2,000/-, in default to undergo simple imprisonment for another 3(three) months.

3. The learned counsel for the applicant submits that there is no eye witness to the incident. P.W. 1 stated that he had seen that fire broke out in the front door of his shop and one of his neighbours informed him that the applicant set fire on his shop. It is further submitted that on the basis of the evidence of P.W.2 and P.W.4, the applicant was convicted for the alleged offence. According to P.W.2 and P.W.4, they had seen the appellant/applicant running away from the place of incident.

4. It is also submitted that there are lots of contradictions in the evidence of the witnesses and 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. Goswami, 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. It appears that P.W.4 stated that he saw fire broke out in front of the shop of the informant and noticed the applicant running away from the place of occurrence. From the evidence of other witnesses, it is not reflected whether

the accused/applicant set fire on the shop of the informant. Considering the submission of learned counsel for the parties, 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 Sessions Case No. 212/2018, under Section 436 IPC, 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 Additional Sessions Judge No. 1, Kamrup(M), Guwahati, Assam.

(ii) The learned Additional Sessions Judge No. 1, Kamrup(M), Guwahati, Assam will be at liberty to impose any condition(s) while releasing the applicant on bail.

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