

GAHC010044632024



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

Case No. : I.A.(Crl.)/263/2024

MD. RAHMAN ALI
S/O MAJU MIYA,
VILL.- SUNETARI, PACHIM MAZDIA, BALARTARI, P.S.- CHENGA, DIST.-
BARPETA, ASSAM.

VERSUS

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

2: PURNIMA KUMARI
AFTER HER DEATH
REP. BY HER LEGAL HEIR OR HUSBAND SRI GOPAL KUMAR

R/O RUKMINI GAON
BAHINI PATH
BY LANE NO. 6
P.S.- DISPUR
GUWAHATI
DIST.- KAMRUP (M)
ASSAM

Advocate for the Petitioner : MR. P BORAH

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 27.05.2024
(M. Choudhury,J)

Heard Mr. P. Borah, learned counsel for the applicant-appellant and Ms. B. Bhuyan, learned Senior counsel and Additional Public Prosecutor for the opposite party no. 1, State of Assam.

2. The instant interlocutory application under Section 5 of the Limitation Act, 1963 is preferred seeking condonation of delay of 31 [thirty one] days, which is stated to have occurred in preferring the connected criminal appeal against a Judgment of conviction dated 28.11.2023 and an Order on sentence dated 30.11.2023 passed by the Court of learned Additional Sessions Judge no. 1, Kamrup [M], Guwahati [‘the trial court’, for short] in Sessions Case no. 173/2016. By the Judgment of conviction dated 28.11.2023, the applicant-appellant and two co-accused persons have been convicted for the offences punishable under Sections 302/379/34, Indian Penal Code [‘IPC’, for short]. Thereafter by the Order on sentence dated 30.11.2023, the applicant-appellant has been sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 10,000/-, with default stipulation, for the offence under Section 302/34, IPC. For the offence under Section 379/34, IPC, the applicant-appellant has been sentenced to undergo rigorous imprisonment for 2 [two] years and to pay a fine of Rs. 1,000/-, with default stipulation. The sentences are ordered to run concurrently.

3. We have gone through the statements and averments made in the instant interlocutory application filed for condoning delay of 31 [thirty one] days in preferring the accompanying criminal appeal.

4. As per the Limitation Act, 1963, an appeal under Section 374 [2], Code of Criminal Procedure is required to be filed within a period of 60 [sixty] days. Having gone through the grounds averred in the instant application, we are of the view that the applicant-appellant has

been able to show sufficient cause as regard the delay of 31 days. In any view of the matter, considering the conviction and sentence imposed by the applicant-appellant, the accompanying appeal is required to be heard on merits. Accordingly, the instant interlocutory application stands allowed.

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

J U D G E

J U D G E

Comparing Assistant