

GAHC010045462024



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

Case No. : I.A.(CrI.)/210/2024

HEMANTA PHUKAN
S/O SRI BHABA PHUKAN,
VILL.- NIMAIGARH HABI GAON, P.S.- MATHURAPUR, DIST.- CHARAIDEO,
ASSAM.

VERSUS

STATE OF ASSAM
REP. BY P.P., ASSAM.

Advocate for the Petitioner : MRS DIPANJALI BORPUJARI (LEGAL AID COUNSEL)

Advocate for the Respondent : PP, ASSAM

Linked Case :

HEMANTA PHUKAN

VERSUS

THE STATE OF ASSAM F

Advocate for : MRS DIPANJALI BORPUJARI
Advocate for : appearing for THE STATE OF ASSAM F

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

04.03.2024

[Manish Choudhury, J.]

Heard Ms. D. Borpujari, learned Legal Aid Counsel for the applicant-appellant and Ms. N. Das, learned Additional Public Prosecutor, Assam for the opposite party-respondent State of Assam.

The instant interlocutory application is preferred under Section 5 of the Limitation Act seeking condonation of delay of 27 days, which has occurred in filing the accompanying appeal under Section 374[2], Code of Criminal Procedure [CrPC], 1973 against the judgment and order dated 21.11.2023 passed by the Court of learned Sessions Judge, Charaideo in Sessions [CHA] Case no. 27/2020.

By the judgment and order dated 21.11.2023, the applicant-accused has been convicted under Section 302, Indian Penal Code [IPC] and 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 further 1 [one] month. The applicant-accused has also been convicted under Section 326, IPC and has been sentenced to undergo rigorous imprisonment for 10 [ten] years and to pay a fine of Rs. 10,000/-, in default of payment of fine, to undergo simple imprisonment for another 1 [one] month. In addition, the applicant-accused has also been convicted under Section 450, IPC and has been sentenced to undergo rigorous imprisonment for a period of 5 [five] years and to pay a fine of Rs. 10,000/-, in default of payment of fine, to undergo simple imprisonment for further 1 [one] month. The sentences are to run concurrently.

In the interlocutory application, it has been averred that the accompanying criminal

appeal, as per the law of limitation, ought to have been filed on or before 23.01.2024. The reasons for delay of 27 days, which had occurred in preferring the appeal, have been stated in paragraph 9 and paragraph 10 of the interlocutory application.

The learned Additional Public Prosecutor appearing for the opposite party-respondent State of Assam has submitted that there is no objection from her end as regards the prayer for condonation of delay.

Having regard to the reasons assigned in the interlocutory application and considering the fact that the prayer is not opposed to by the learned Additional Public Prosecutor, Assam, the period of 27 days of delay which has occurred in preferring the accompanying criminal appeal is condoned.

The Registry to register the connected appeal and thereafter, list the appeal in the admission column.

JUDGE

JUDGE

Comparing Assistant