

GAHC010047252024



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

Case No. : I.A.(Crl.)/244/2024

SANU BHUYAN
S/O SATTAR BHUYAN,
VILL.- DAKHIN SITULI,
P.S.- BAGHBAR, DIST.- BARPETA, ASSAM.

VERSUS

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

2:SURUJ BHUYAN
S/O LATE ABUL HUSSAIN
R/O DEWRIKUCHI
P.S.- BARPETA
BARPETA (ASSAM)

Advocate for the Petitioner : MR. A K BHUYAN

Advocate for the Respondent : PP, ASSAM

Linked Case :

SANU BHUYAN

VERSUS

THE STATE OF ASSAM AND ANR. G

Advocate for : MR. A K BHUYAN
Advocate for : appearing for THE STATE OF ASSAM AND ANR. G

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
HONOURABLE MRS. JUSTICE MARLI VANKUNG

ORDER

Date : 13-03-2024

[M. Choudhury, J]

Heard Ms. N. Choudhury, learned counsel for the applicant-appellant and Ms. S.H. Bora, learned Additional Public Prosecutor for the opposite party-respondent no. 1, State of Assam.

2. The instant application under Section 5 of the Limitation Act, 1963 is preferred by the applicant-appellant seeking condonation of delay of 29 [twenty nine] days, which has occurred in preferring the connected appeal.

3. The connected criminal appeal, which is yet to be registered, is preferred under Section 374[2] of the Code of Criminal Procedure, 1973 against a Judgment dated 28.11.2023 and an Order dated 30.11.2023 passed by the Court of learned Additional Sessions Judge [FTC], Barpeta [‘the trial Court’, for short] in Sessions Case no. 211/2022. By the said Judgment and Order, the applicant-appellant has been convicted for the offences under Section 302, Section 325 and Section 323 of the Indian Penal Code [IPC]. For the offence under Section 302, IPC, 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 another 6 [six] months. For the offence under Section 325, IPC, the applicant-appellant has been sentenced to undergo rigorous imprisonment for 3 [three] years and to pay a

fine of Rs. 5,000/-, in default of payment of fine, to undergo simple imprisonment for a period of 3 [three] months. For the offence under Section 323, IPC, the applicant-appellant has been sentenced to undergo rigorous imprisonment for 1 [one] year and to pay a fine of Rs. 1,000/-, in default of payment of fine, to undergo simple imprisonment for a period of 3 [three] months. All the sentences are to run concurrently.

4. It has been averred that due to poor financial condition of the applicant-appellant, the delay of 29 days has occurred in preferring the accompanying appeal. It is submitted that there was no negligence or lack of *bona fide* in the part of the applicant-appellant in causing the delay.

5. Ms. Bora, learned Additional Public Prosecutor for the opposite party-respondent no. 1 has submitted that considering the conviction and sentence, the accompanying appeal is required to be heard on merits.

6. Having considered the grounds mentioned in preferring the connected appeal of 29 days of delay, this Court is of the considered view that the applicant-appellant has shown sufficient cause for condoning the delay of 29 days. Accordingly, the instant interlocutory application is allowed.

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

JUDGE

JUDGE

Comparing Assistant