

GAHC010060822024



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

**Case No. : I.A.(CrI.)/291/2024**

MD. ABDUL GONI  
S/O LATE JAHED ALI R/O VILL- FALIHAMARI PAM P.S. BHURAGAON DIST.  
MORIGAON, ASSAM

VERSUS

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

2:MD. HABIBUR RAHMAN  
BLOCK DEVELOPMENT OFFICER (RETD)  
LAHORIGHAT DEVELOPMENT BLOCK  
P.O. LAHORIGHAT  
MORIGAON  
DIST.MORIGAON  
ASSAM PRESENT ADDRESS- R.K.B. ROAD  
CHRISTAN PATTY  
NAGAON  
NEAR LIONS CLUB  
NAGAON  
P.O.  
P.S. AND DIST. NAGAON  
ASSAM  
PIN-78200

**Advocate for the Petitioner : MR D K DAS**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE  
HONOURABLE MRS. JUSTICE MITALI THAKURIA  
ORDER**

**01.04.2024**

Heard Mr. D. K. Das, learned counsel for the applicant. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent No. 1.

**2.** This is an application filed under Section 389 of the Code of Criminal Procedure, 1973, praying for suspension of sentences passed against the accused/applicant, vide impugned judgment and order dated 13.09.2019 passed by the learned Chief Judicial Magistrate, Morigaon in G. R. Case No. 1177/2008 as well as the impugned order dated 21.02.2024 passed by the learned Sessions Judge, Morigaon in Criminal Appeal No.40/2019 and also prayed to allow the accused/applicant to remain on previous bail or on fresh bail.

**3.** Mr. Das, learned counsel for the applicant has submitted that vide judgment and order dated 13.09.2019, passed by the learned Chief Judicial Magistrate, Morigaon in G. R. Case No.1177/2008, the accused/applicant namely, Md. Abdul Goni was convicted under Sections 409/420 of IPC, and the said Court sentenced him to undergo Rigorous Imprisonment for 5 (five) years for an offence under Section 409 of IPC along with a fine of Rs. 20,000/- (Rupees Twenty thousand) only and in default to pay the fine Simple Imprisonment for another 3(three) months. And, also sentenced to undergo R.I. for 5 (five) years for convicted under Section 420 of IPC along with a fine of 20,000/- (Rupees Twenty thousand) only and in default to pay the fine S. I. for another 3 (three) months. Both the sentences shall run concurrently.

**4.** Aforesaid Judgment and order dated 13.09.2019 was challenged before

the learned Sessions Judge, Morigaon by filling a Crl. Appeal No.40/2019 and vide order dated 21.02.2024, the said Court was pleased to partly allowed and partly upheld the Trial Court judgment. The learned Sessions Judge, Morigaon discharged the accused/applicant for commission of offence under Section 420 of IPC however, the accused was convicted under Section 409 IPC.

**5.** On being highly aggrieved and dissatisfied with the Judgments and orders passed by the learned Chief Judicial Magistrate, Morigaon as well as the learned Sessions Judge, Morigaon on dated 13.09.2019 and 21.02.2024 respectively, this Interlocutory application has been preferred by the accused/applicant for suspension of sentences imposed upon him.

**6.** Further, Mr. Das, learned counsel for the applicant submits that there is every probability of succeeding the connected criminal revision petition. He also submitted that after obtaining the bail, the accused/applicant never jumped over any of the bail conditions. Hence, it is prayed for suspension of sentence imposed by the Trial Courts, and also prayed for allowing the applicant to go on previous bail or on fresh bail, till disposal of the connected criminal revision petition. More so, he also submits that the accused/applicant is an old ailing person of 75 years of age; he is a local person, and hence, there is no chance of absconding, if he is allowed to remain on previous bail till disposal of the connected criminal revision petition. He also produced the order passed by the learned Chief Judicial Magistrate, Morigaon, whereby, the accused/applicant was given an opportunity for production of order passed in criminal revision petition, if any.

**7.** On the other hand, the learned Additional Public Prosecutor, Mr. Borthakur,

submitted that learned Sessions Judge was pleased to partly uphold the judgment passed by the Trial Court and hence, he raised objection in allowing the applicant to remain on previous bail or to go on fresh bail.

**8.** Considering the submissions of learned counsels of both sides as well as considering the age and conduct of the accused applicant and the grounds taken in the revision petition, I find it appropriate to allow this interlocutory application. Accordingly, the operation of the impugned judgment and order dated 13.09.2019 passed by the learned Chief Judicial Magistrate, Morigaon in G. R. Case No. 1177/2008, as well as the impugned order dated 21.02.2024 passed by the learned Sessions Judge, Morigaon in Criminal Appeal No.40/2019, stands stayed/suspended till disposal of the revision petition, being CrI. Rev. P. No.118/2024.

**9.** Further, the applicant namely, Abdul Goni is allowed to go on fresh bail on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Chief Judicial Magistrate, Morigaon.

**10.** In terms of above, this interlocutory application stands disposed.

**JUDGE**

**Comparing Assistant**