

GAHC010061462024



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

Case No. : I.A.(CrI.)/282/2024

MOINAL HAQUE
S/O SRI ABDUL JALIL,
VILL.- GOROIMARI SATRA,
P.S.- CHHAYGAON, DIST.- KAMRUP, AMINGAON, 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

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

ORDER

29.04.2024

[Manish Choudhury, J.]

Heard Ms. D. Borpujari, learned Legal Aid Counsel for the applicant and Ms. S.H. Bora, learned Additional Public Prosecutor, Assam for the opposite party.

2. The instant interlocutory application is preferred under Section 5 of the Limitation Act, 1963 with a prayer to condone the delay of 97 days, which have occurred in preferring the connected criminal appeal.

3. The connected criminal appeal has been preferred by the applicant as the appellant, under Section 374[2], CrPC against a Judgment and Order dated 11.10.2023 passed by the learned Sessions Judge, Kamrup, Amingaon in Sessions Case no. 17/2022. By the said Judgment and Order dated 11.10.2023, the applicant-appellant has been convicted under Section 302, IPC and he has been sentenced to undergo life imprisonment and to pay a fine of Rs. 5,000/-, in default of payment of fine, to undergo a simple imprisonment for 3 [three] months.

4. Ms. Borpujari, learned Legal Aid Counsel appearing for the applicant-appellant has submitted that the reasons for delay in preferring the connected criminal appeal has been explained in paragraph nos. 8, 9 & 10 of the application. It is further submitted by Ms. Borpujari that considering the fact that the applicant-appellant has been convicted for the offence of murder and has been sentenced to undergo life imprisonment, interest of justice will be better subserved if the connected criminal appeal is heard on merits after condoning the period of delay of 97 days, which, according to her, is not substantive and did not occur due to any laches on the part of the applicant-appellant.

5. Ms. Bora, learned Additional Public Prosecutor has submitted that if the connected criminal appeal is heard on merits, after condoning the delay, there would be expeditious consideration.

6. We have gone through the statements and averments made in the interlocutory application, more particularly, paragraph nos. 8, 9 & 10 wherein the reasons for delay in preferring the connected appeal have been explained. Having gone through the same, we are of the considered view that the applicant-appellant has explained the reasons for delay showing sufficient cause. In any view of the matter, the cause of justice will be better served if the connected criminal appeal is heard on merits. The interlocutory application stands

accordingly allowed.

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

JUDGE

JUDGE

Comparing Assistant