

GAHC010061882024



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

Case No. : I.A.(Crl.)/379/2024

DEBEN BARUAH
S/O LT. BIPIN CH. BARUAH,
R/O SANTIPUR BAGAN,
P.S.- PALASHBARI,
DIST.- KAMRUP, ASSAM.

VERSUS

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

2:JOTILA RABHA
W/O KOKIL CH. RABHA
VILL.- TULSIBARI (BAGAN)
P.S.- PALASHBARI
DIST.- KAMRUP
ASSAM

Advocate for the Petitioner : MR. B HALDAR (LEGAL AID COUNSEL)

Advocate for the Respondent : PP, ASSAM

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

01.05.2024

[M. Choudhury, J.]

Heard Mr. B. Haldar, learned Legal Aid 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 interlocutory application under Section 5 of the Limitation Act, 1963 is preferred seeking condonation of delay of 73 [seventy-three] days, which is stated to have occurred in preferring the connected appeal against a Judgment and Order 07.11.2023 passed in Special [POCSO] Case No. 68/2018 by the learned Additional Sessions Judge cum Special Judge [POCSO], Kamrup Amingaon. By the said Judgment and Order dated 07.11.2023, the applicant-appellant has been convicted for the offence under Section 6 of the POCSO Act, 2012 and he has been sentenced him to undergo rigorous imprisonment for life and to pay a fine of Rs. 20,000/-, in default of payment of fine, to undergo simple imprisonment for another 4 [four] months.

3. Mr. Haldar, learned Legal Aid Counsel for the applicant-appellant has drawn attention to the statements and averments made in the interlocutory application, more particularly to paragraph no. 5 thereof, wherein the reasons for delay of 73 [seventy-three] in preferring the connected appeal have been outlined.

4. From the reasons stated therein, it is noticed that the applicant-appellant had sought Legal Aid for preferring an appeal through the Superintendent of Central Jail, Guwahati and his application was forwarded to the District Legal Services Authority, Charaideo vide letter dated 21.11.2023 and in that process, the delay of 73 [seventy-three] days has occurred.

5. Having gone through the statements and averments made in the interlocutory application, more particularly, in paragraph no. 5 thereof, this Court is of the view that the applicant-appellant has been able to explain the period of delay showing sufficient cause. Moreover, the cause of substantial justice will be better sub-served if the connected appeal is heard on merits.

6. In view of the above, the instant interlocutory application seeking condonation of delay of 73 [seventy-three] days in preferring the connected appeal is allowed, with the observation that the informant-victim will have the participatory right to participate in the proceedings of the connected appeal.

7. The Registry to register the connected appeal and list the same for admission in usual course.

JUDGE

JUDGE

Comparing Assistant