

GAHC010071752024



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

Case No. : I.A.(CrI.)/343/2024

AJODHYA PRASAD MISHRA
S/O LATE RAM ADHAR MISHRA,
VILL.- BHAGWANPUR,
P.O. AND P.S.- CHAURICHAURA,
DIST.- GORAKHPUR (UTTAR PRADESH), PIN- 273209.
PRESENT ADDRESS- VILL.- NO. 2 GORESWAR, P.O. AND P.S.- GORESWAR,
DIST.- BAKSA (ASSAM), PIN- 781366.

VERSUS

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

2.:JAGADISH MAZUMDAR
S/O LATE GANESH MAZUMDAR

VILL.- NO. 2 GORESWAR
P.O. AND P.S.- GORESWAR
DIST.- BAKSA (ASSAM)
PIN- 781366

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 09.04.2024

[M. Choudhury, J]

Heard Mr. A.M. Ahmed, learned counsel for the applicant and Ms. S. Jahan, learned Additional Public Prosecutor for the opposite party no. 1, State of Assam.

2. The present application is preferred under Section 5 of the Limitation Act, 1963 with a prayer to condone delay of 8 [eight] days, which has occurred in preferring the connected appeal against a Judgment and Order dated 12.01.2024. The applicant as the appellant, has preferred the connected appeal, which is yet to be registered, against the Judgment and Order dated 12.01.2024 passed by the court of learned Special Judge [POCSO], Baksa in Special POCSO Case no. 04/2018. By the said Judgment and Order dated 12.01.2024, the applicant-appellant has been convicted for offence under Section 4 of the Protection of Children from Sexual Offences Act, 2012 and he has been sentenced to undergo rigorous imprisonment for a period of 20 [twenty] years and to pay a fine of Rs. 20,000/-, in default of payment of fine, to undergo simple imprisonment for 6 [six] months.

3. The learned counsel for the applicant has drawn attention to the statements and averments made in paragraph 2 of the instant application wherein the reason for delay has been explained.

4. Though a contention has been advanced on behalf of the learned Additional Public Prosecutor that issuance of notice to the opposite party no. 2

appears necessary, we are of the considered view that the opposite party no. 2/victim/guardian/support person, will have every participatory right in the course of the criminal appeal and we do not find it necessary, to issue notice to the victim/guardian/support person at this stage as the period of delay in preferring the appeal is only 8 [eight] days. We are satisfied that the explanation provided in paragraph 2 of the instant application. As the applicant has been able to show sufficient cause in explaining the delay. We find it proper to condone the delay and to hear the accompanying appeal on merits. Accordingly, the instant interlocutory application is allowed.

5. The Registry to register the connected appeal and list the same for admission.

JUDGE

JUDGE

Comparing Assistant