

GAHC010076862024



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

Case No. : I.A.(Crl.)/556/2024

BIJAY PAN TANTI @ BIJAYA TANTI
S/O UGRASEN TANTI,
VILL.- MAJNOI TEA ESTATE, P.S.- TEOK, DIST.- JORHAT, ASSAM.

VERSUS

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

2:TILOK TANTI
S/O UGRASEN TANTI
VILL.- MAJNOI TEA ESTATE
P.S.- TEOK
DIST.- JORHAT
ASSAM

Advocate for the Petitioner : MS S MEDHI (LEGAL AID COUNSEL)

Advocate for the Respondent : PP, ASSAM

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

14.06.2024

[M. Choudhury, J.]

Heard Ms. S. Medhi, learned counsel for the applicant-appellant and Mr. K.K. Das, 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 9 [nine] days, which is stated to have occurred in preferring the connected appeal under Section 374 [2] of the Code of Criminal Procedure, 1973 against a Judgment and Order dated 20.12.2023 passed by the learned Sessions Judge, Jorhat ['the trial court', for short] in Sessions Case no. 69[J-J]/2021. By the said Judgment and Order dated 20.12.2023, the applicant-appellant has been convicted for the charge of murder under Section 302 of the Indian Penal Code and the applicant-appellant has been sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 500/-, in default of payment of fine, to undergo rigorous imprisonment for another 1 [one] month.

3. We have perused the statements and the averments made in paragraph no. 2 of the instant application wherein the reasons for the delay of 9 [nine] days in preferring the accompanying appeal have been explained.

4. Having considered the fact that the period of delay is only 9 [nine] days and as regard the period of delay, the applicant-appellant has been able to explain the reason for delay showing sufficient cause, we are of the considered view that instead of issuance of notice to the respondent no. 2, who will have the participatory right to participate in the appellate proceedings, the cause of substantial justice would be better sub-served if the accompanying appeal is heard on merits, after condoning the delay of 9 [nine] days in preferring the connected appeal.

5. Mr. Das, learned Additional Public Prosecutor has submitted that he has no objection with the accompanying appeal is heard on merits.

6. Accordingly, the instant interlocutory application is allowed.

7. The Registry to register the accompanying appeal and thereafter, list the appeal accordingly.

JUDGE

JUDGE

Comparing Assistant