

GAHC010080232024



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

Case No. : I.A.(Crl.)/389/2024

RAHUL ALI
S/O SAFAR ALI,
VILL.- HELA PAKHRI,
P.S.- MORNOL,
DIST.- GOALPARA, ASSAM, PIN- 783101.

VERSUS

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

2:ALI HUSSEN
S/O LT. ETIM ALI
VILL.- DOSTI NAGAR
WARD NO. 13
P.S.- GOALPARA
DIST.- GOALPARA
ASSAM
PIN- 783101

Advocate for the Petitioner : MR. A ROSHID

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 30.04.2024
[Manish Choudhury, J.]

Heard Mr. A. Roshid, learned counsel for the applicant and Ms. S.H. Bora, learned Additional Public Prosecutor for the opposite party no. 1, State of Assam.

2. The instant interlocutory application is preferred under Section 5 of the Limitation Act, 1963 with a prayer to condone the delay of 16 [sixteen] days, which has occurred in preferring the connected appeal.

3. The connected appeal has been preferred by the applicant as the appellant, against a Judgment dated 22.01.2024 and an Order on Sentence dated 25.01.2024 passed by the Special Judge, Goalpara in Special [P] Case no. 17/2017. By the Judgment dated 22.01.2024, the applicant-appellant has been found guilty of the offence under Section 4 of the Prevention of Children from Sexual Offences [POCSO] Act, 2012 and by the Order on Sentence dated 25.01.2024, the applicant-appellant has been sentenced to undergo imprisonment for life and to pay a fine of Rs. 25,000/-, in default of payment of fine, to undergo simple imprisonment for 6 [six] months.

4. The reasons for the delay of 16 [sixteen] days, which has occurred in preferring the connected appeal have been found explained in Paragraph nos. 7 and 8 of the interlocutory application.

5. We are of the considered view that the cause of substantial justice will be better subserved if the connected appeal is heard on merits as the period of delay, which in the instant appeal is only 16 [sixteen] days, is not substantial. The informant/victim will have the right to contest the criminal appeal and as such, issuance of any notice to the informant/victim is found not necessary at this stage. The applicant-appellant has explained the reasons for 16 [sixteen] days' delay which had occurred in preferring the connected criminal appeal showing sufficient cause.

6. In the above view of the matter, the instant interlocutory application seeking condonation of delay of 16 [sixteen] days in preferring the connected appeal deserves to be allowed and it is accordingly ordered.

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

admission.

JUDGE

JUDGE

Comparing Assistant