

GAHC010101942024



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

Case No. : I.A.(CrI.)/576/2024

MAJIBAR RAHMAN
S/O HANIF UDDIN,
VILL.- TOKRABANDHA, P.S.-CHAPAR, DIST.- DHUBRI, ASSAM, PIN- 783371.

VERSUS

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

Advocate for the Petitioner : MR. N J GOGOI

Advocate for the Respondent : PP, ASSAM

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

ORDER

21.06.2024

[M. Choudhury, J.]

Heard Mr. N.J. Gogoi, learned counsel for the applicant and Ms. A. Begum, learned Additional Public Prosecutor for the opposite party 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 10 [ten] 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 30.01.2024 passed by the learned Additional

Sessions Judge, Bilasipara ['the trial court', for short] in Sessions Case no. 66/2016. In the trial of the Sessions Case no. 66/2016, 9 [nine] numbers of accused persons faced the trial wherein the applicant, Majibar Rahman was A-5. By the Judgment and Order dated 30.01.2024, the learned trial court has *inter-alia* convicted the applicant – appellant, for the offences under Section 147/148/323/324/326/302 of the Indian Penal Code. Apart from sentencing the applicant – appellant for the other offences, the applicant – appellant has been sentenced for the offence of murder under Section 302, IPC read with Section 149, IPC to undergo imprisonment for life and to pay a fine of Rs. 10,000/-, in default of payment of fine, to undergo simple imprisonment for another 2 [two] months.

3. We have perused the statements and averments made in paragraph nos. 2 - 5 of the instant application wherein the reasons for the delay of 10 [ten] days in preferring the accompanying appeal have been explained.

4. Ms. Begum, learned Additional Public Prosecutor has submitted that she has no objection if the accompanying appeal is heard on merits.

5. Having considered the reasons explained in the application, we are of the considered view that the applicant - appellant has been able to explain the reasons for delay showing sufficient cause. We are also of the view that the cause of substantial justice would be better sub-served if the accompanying appeal is heard on merits, after condoning the delay of 10 [ten] days in preferring the accompanying appeal.

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