

GAHC010113552024



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

Case No. : I.A.(Crl.)/534/2024

SAUMITRA GUPTA @ SOUMITRA GUPTA
S/O LATE RANJIT GUPTA
R/O ITKHOLA
SILCHAR
P.S.-SILCHAR
PIN-788002
DIST-CACHAR
ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

2:SHYAMAL PAUL
S/O LATE BIJAY KRISHNA PAUL
R/O CHANDICHARAN ROAD
P.S.-SILCHAR
PIN-788005
DIST- CACHAR
ASSAM

Advocate for : MS. S G BARUAH
Advocate for : Mr. B. Sharma, Addl.PP

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

18.06.2024

Heard Ms. S. G. Baruah, learned counsel for the applicant. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State of Assam.

2. This application filed under Section 389 of the Code of Criminal Procedure, 1973, praying for suspension of sentence and to allow the applicant to remain on fresh bail.

3. It is submitted by the learned counsel for the applicant, Ms. Baruah that after the order of conviction, the applicant preferred an appeal before the learned Additional Sessions Judge (FTC), Cachar, Silchar in Criminal Appeal No. 20/2020, whereby, the said Court had upheld the conviction passed by the learned Court of Additional Chief Judicial Magistrate, Cachar, Silchar vide Judgment and Order dated 05.03.2020 in C. R. (N.I.) Case No.658/2004 under Section 138 of N. I. Act, 1881 and sentenced the petitioner to undergo S. I for 2(two) years and a fine of Rs.2,90,000/- (Rupees Two Lakh ninety thousand only) and the fine so paid shall be given to the respondent No.2/complainant as compensation and it was further directed that in default of payment of fine the applicant/accused to undergo imprisonment for another term of S. I. for 6(six) months. Thereafter, against the order passed by the learned Additional Sessions Judge (FTC), Cachar, Silchar, the applicant preferred a criminal revision petition, being No. 218/2024.

4. She further submitted that the respondent No.2/complainant has not stated the reason for which the debt was given to the accused/applicant and whether the debt falls within the domain of any legal enforceable debt and has also not stated any certain date on which the disputed alleged amount was given to the accused/applicant. Apart from that one legal notice was issued to the

accused/applicant by Shri N. C. Malakar, Advocate, District Bar Association, Cachar, Silchar, however, no signature was available in the said notice to prove as to whether the notice was issued by the aforesaid Advocate and also the said Advocate was not called for. Accordingly, there are sufficient grounds for succeeding the connected revision petition. During the entire proceedings, the applicant was on bail and he never jumped over any of the bail conditions.

5. Mr. B. Sharma, learned Additional Public Prosecutor, submits that he has no objection if the applicant is allowed to go on bail as during the pendency of the connected revision petition, being CrI. Rev. P.No. 218/2024.

6. Considering the submissions of learned counsels for both sides and entire circumstance of the case and also for the ends of justice, I find it appropriate to stay/suspend the sentence and to allow the present applicant to go on fresh bail.

7. Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Additional Chief Judicial Magistrate, the applicant, namely, Saumitra Gupta @ Soumitra Gupta, be enlarged on bail. The Sentence be stayed/suspended till disposal of the connected criminal revision petition.

8. In terms of above, this interlocutory application stands disposed of.

JUDGE

Comparing Assistant