

GAHC010118642024



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

Case No. : I.A.(CrI.)/710/2024

MD. AYANAL HOQUE
S/O LATE MANCHAR ALI,
R/O CHOWTAKI NO. 1, P.S.- KOKRAJHAR, DIST.- KOKRAJHAR, ASSAM.

VERSUS

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

Advocate for the Petitioner : MR. U CHOUDHURY (LEGAL AID COUNSEL),

Advocate for the Respondent : PP, ASSAM,

Linked Case :

AYANAL HOQUE

VERSUS

THE STATE OF ASSAM G

Advocate for : MR. U CHOUDHURY
Advocate for : appearing for THE STATE OF ASSAM G

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

09.08.2024

[Manish Choudhury, J.]

Heard Mr. U. Choudhury, learned counsel for the applicant-appellant and Ms. A. Begum, learned Additional Public Prosecutor for the opposite party State.

2. The instant application under Section 5 of the Limitation Act, 1963 is preferred seeking condonation of delay of 69 days, stated to have occurred in filling the accompanying criminal appeal under Section 374[2], Code of Criminal Procedure [CrPC], 1973 r/w Section 36[B] of the Narcotic Drugs and Psychotropic Substances [NDPS] Act, 1985. The accompanying criminal appeal is preferred against a Judgment & Order dated 02.02.2024, passed by the Court of learned Special Judge, Bongaigaon ['the Special Court', for short] in Special [Nar] Case no. 05 [BGN] of 2023. By the Judgment & Order dated 02.02.2024, the applicant-appellant has been convicted for the offence under Section 22[c] of the NDPS Act and he has been sentenced to undergo rigorous imprisonment for 12 years and to pay a fine of Rs. 1,00,000/-, in default of payment of fine, to undergo simple imprisonment for another 6 [six] months.

3. The applicant-appellant has explained the reasons for the delay of 69 days in preferring the accompanying appeal in paragraph nos. 4, 5 and 9 of the application.

4. We have gone through the statements and averments made in this application, more particularly, in paragraph nos. 4, 5 and 9 thereof.

5. Ms. Begum, learned Additional Public Prosecutor for the opposite party State has submitted that no instruction has been received to oppose the instant application, which has been preferred for condonation of delay in preferring the accompanying criminal appeal.

6. Having considered the reasons shown for the delay, we find that the applicant-appellant has been able to explain the period of delay showing sufficient cause. In any view of the matter, we find that ends of justice will be better subserved if the accompanying appeal is heard on merits, as after finding guilty of the offence under Section 22[c] of the NDPS Act, the applicant-appellant has been sentenced to undergo rigorous imprisonment for 12 years and to pay a fine of Rs. 1,00,000/-, with default stipulation.. Accordingly, the instant application is allowed condoning the period of delay of 69 days beyond the period of limitation.

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

JUDGE

JUDGE

Comparing Assistant