

GAHC010124652024



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

Case No. : I.A.(CrI.)/585/2024

RAJESH BORAH
S/O SRI NAGEN BORAH R/O VILL- GEREKI P.O. AND P.S. SOOTEA, DIST.
SONITPUR, ASSAM

VERSUS

DILIP BHUYAN
S/O PARESH BHUYAN R/O VILL- BARO BHUYAN P.O. AND P.S. SOOTEA,
DIST. BISWANATH, ASSA

Advocate for the Petitioner : R. Bora

Advocate for the Respondent :

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

24.06.2024

Heard Mr. R. Bora, learned counsel for the applicant.

This is an application under Section 389 of the Code of Criminal Procedure, 1973, praying for suspension of sentence passed against the accused/applicant.

It is to be noted here that the applicant has already preferred one criminal revision petition, being CrI. Rev.P./236/2024, against the impugned Judgment and Order dated 22.04.2024 passed by the learned Additional Sessions Judge, Biswanath Chariali in Criminal Appeal Case No.04 (S-4)/2021 upholding the Judgment and Order dated 29.09.2021 passed by the learned Sub-Divisional Judicial Magistrate (M), Biswanath Chariali in C.R. Case No. 203/2014, whereby, the petitioner was convicted under Section 138 of N. I. Act and sentenced him to undergo S.I. for 6(six) month and to pay a fine of Rs.15,00000/- (Rupees Fifteen lakhs) only and in default to undergo imprisonment for another 3(three) months.

The said revision petition, being CrI. Rev. P./236/2024, has been admitted today, i.e. on 24.06.2024 and also the record has been called for.

It is submitted by the learned counsel for the applicant, Mr. Bora that the complainant/respondent failed to establish that there was any legally enforceable debt to be payable by the accused/applicant to attract an offence under Section 138 of N. I. Act. He further submitted that the accused/applicant

was on bail during the entire trial and there is no chance of absconding and thus, he accordingly prays for, suspension of the sentences imposed upon him as there is a chance of acquittal.

Considering the submissions of learned counsels of both sides and also considering the facts and circumstances on the record and the grounds taken in the revision petition, I find it appropriate to allow this interlocutory application. Accordingly, the operation of the impugned Judgment and Order dated 22.04.2024 passed by the learned Additional Sessions Judge, Biswanath Chariali in CrI.A. Case No.04(S-4)/2021 upholding the Judgment and Order dated 29.09.2021 passed by the learned Sub-Divisional Judicial Magistrate (M), Biswanath Chariali in C.R. Case No. 203/2014, whereby, the applicant was convicted under Section 138 of N. I. Act, stands stayed/suspended till disposal of the revision petition, being CrI. Rev. P./236/2024.

Accordingly, it is provided that on furnishing a bond of Rs. 15,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Sub-Divisional Judicial Magistrate (M), Biswanath Chariali, the accused/applicant, namely, Rajesh Borah, be enlarged on bail.

In terms of above, this interlocutory application stands disposed.

JUDGE

Comparing Assistant