

GAHC010133602024



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

**Case No. : I.A.(Crl.)/627/2024**

ASHIS KUMAR,  
S/O LATE ALBET KUMAR,  
VILL.- ORANGAJULI,  
P.S.- DIMAKUCHI,  
DIST.- UDALGURI, ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR.  
REP. BY THE PUBLIC PROSECUTOR, ASSAM

2:LOK BAHADUR CHETRY

S/O LATE RATNA BAHADUR CHETRY  
VILL.- NO. 2 BHOLATAR  
P.S.- DIMAKUCHI  
DIST.- UDALGURI  
ASSAM

**Advocate for the Petitioner** : MR. B BARUAH,

**Advocate for the Respondent** : PP, ASSAM,

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

**ORDER**

**Date :** 02.08.2024

*[Manish Choudhury, JJ]*

Heard Mr. B. Baruah, learned counsel for the applicant-appellant and Ms. B. Bhuyan, learned

Senior Counsel & Additional Public Prosecutor assisted by Ms. M. Chakraborty, learned counsel for the opposite party no. 1, State of Assam.

2. The instant application is preferred under Section 389[1], Code of Criminal Procedure, 1973 seeking suspension of the execution of sentence passed against the applicant-appellant and for his release on bail. The applicant-appellant has preferred the accompanying appeal, CRL.A(J)/135/2023 to challenge a Judgment and Order dated 07.08.2023 passed by the Court of learned Special Judge, Udalguri in Special [POCSO] Case no. 64/2019 through a learned Legal Aid Counsel. Along with that accompanying appeal, CRL.A(J)/135/2023, the applicant-appellant is also found to be preferred an application under Section 389[1], CrPC seeking making a similar prayer for suspension of the execution of sentence passed against the applicant-appellant and for his release on bail. The said application under Section 389[1], CrPC has been registered as I.A.(CrI.)/1154/2023. The application, I.A.(CrI.)/1154/2023 is pending for consideration.

3. It is found that instant interlocutory application under Section 389[1], CrPC has been filed by the applicant by engaging another counsel despite the pendency of his earlier application under Section 389, CrPC, I.A.(CrI.)/1154/2023.

4. In view of such fact situation we find that the instant interlocutory application is not maintainable. Such filing of an application when a similar application is already pending, is not appreciated.

5. The instant interlocutory application stands dismissed.

**JUDGE**

**JUDGE**

**Comparing Assistant**