

GAHC010134302023



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

Case No. : I.A.(Crl.)/638/2023

RAFIQUL ISLAM
S/O MAFIZ UDDIN
R/O VILL- BHELTER GHAT,
P.S. KRISHNAI
DIST. GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:SRI ROHIT JAIN
S/O SRI SURESH CH. JAIN
R/O TILAPARA (BAMUNPARA)

P.S. AND DIST. GOALPARA
ASSAM
PIN-78310

Advocate for the Petitioner : MR A N AHMED

Advocate for the Respondent : PP, ASSAM

Linked Case :

RAFIQUL ISLAM

VERSUS

THE STATE OF ASSAM AND ANR (E)

Advocate for : MR A N AHMED

Advocate for : appearing for THE STATE OF ASSAM AND ANR (E)

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 11.06.2024

Heard Mr. A.N. Ahmed, learned counsel for the applicant. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor for the State/respondent No.1 and Ms. Tinlung, learned counsel appears on behalf of Mr. D. Das, learned counsel for the respondent No.2.

The present application has been filed under Section 5 of the Limitation Act, 1963 for condonation of delay of 207 days in preferring the connected revision petition against the impugned judgment dated 01.08.2022 passed by learned Additional Sessions Judge, Goalpara in Criminal Appeal No. 20/2017, affirming the judgment of the learned trial court whereby the applicant was convicted under Section 387 IPC and sentenced him to undergo rigorous imprisonment for three years and to pay a fine of Rs.5,000/- in default further rigorous imprisonment for six months.

Mr. Ahmed, learned counsel for the applicant submits that the delay occurred in filing the connected revision is not intentional. He further submits

due to financial crisis, the applicant was not in a position to engage any lawyer to file this revision petition before this Court as a result of which, there was delay of 207 days in filing the criminal revision petition.

The learned counsel for the respondent No. 2 has sought for some time to file objection against the prayer of the applicant.

Mr. Baruah, learned Additional Public Prosecutor for the State submits that the applicant is in jail for which the matter may be disposed of. He has no objection if the delay is condoned.

I have considered the submissions made by the learned counsel for the parties.

Though the learned counsel for the respondent No. 2 has made objection in condoning the delay, however, it appears from the record that the applicant was convicted under Section 387 IPC for three years and he has been detained in custody for last one and half years i.e. he has completed half of his sentence.

Considering the period of detention and background of the case, the prayer of the applicant is allowed.

Accordingly, the delay of 207 days is condoned. The Registry is directed to register the connected revision petition and list it in admission column.

With the above observation, I/A stands disposed of.

JUDGE

Comparing Assistant