

GAHC010142172024



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

Case No. : I.A.(CrI.)/634/2024

RAJESH MAJHI @ MURMUR
S/O MONSHUR MURMUR,
R/O NAGINIJAN T.E. LINE NO. 14, P.S.- MARIANI, ASSAM.

VERSUS

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

Advocate for the Petitioner : MRS DIPANJALI BORPUJARI (LEGAL AID COUNSEL)

Advocate for the Respondent : PP, ASSAM

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

ORDER

22.07.2024

[Manish Choudhury, J.]

Heard Mr. D. Borpujari, learned Legal Aid Counsel for the applicant-appellant and Ms. B. Bhuyan, learned Senior Counsel & Additional Public Prosecutor assisted by Ms. N. Chakraborty, learned counsel for the opposite party State.

2. The instant application is preferred under Section 5 of the Limitation Act, 1963 seeking condonation of delay on 54 days on the part of the applicant-appellant in preferring the accompanying appeal against a Judgment and Order dated 21.03.2024 passed by the learned Sessions Judge, Jorhat, Assam in Sessions Case no. 85[J-T]/2019. By the Judgment and Order dated 21.03.2024, the applicant-appellant has been convicted for the offences under Section 302, Indian Penal Code [IPC] and Section 364, IPC. For the offence under Section 302, IPC, the applicant-appellant has been sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 100/- with default stipulation. For the offence under Section 364, IPC, the applicant has been sentenced to undergo rigorous imprisonment for 6 [six] years and to pay a fine of Rs. 1,000/- with default stipulation. The sentences are ordered to run concurrently.

3. The applicant-appellant in paragraph 8, 9 & 10 of the instant application, have delineated the reasons for the delay of 54 days, which have occurred in preferring the appeal under Section 374[2], CrPC.

4. We have gone through the statements and averments made in instant interlocutory application, more particularly, in paragraphs 8, 9 & 10 thereto wherein the reasons for the delay of 54 days in preferring the accompanying appeal have been explained by the applicant-appellant.

5. Ms. Bhuyan, learned Additional Public Prosecutor appearing for the opposite party, State has submitted that since the offences for which the applicant-appellant has been convicted are serious in nature and a sentence of imprisonment for life has been passed, the accompanying appeal is required to be heard on merits.

6. Having gone through the statements and averments made in the instant interlocutory application, more particularly, in paragraphs 8, 9 & 10 thereof, we are of the view that the applicant-appellant has been able to show sufficient case regarding the delay of 54 days in preferring the accompanying appeal. We are of the view that the interest of justice will be

better subserved if the delay of 54 days is condoned in order to hear the accompanying appeal on merits. Accordingly, the instant interlocutory application stands allowed.

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

JUDGE

JUDGE

Comparing Assistant