

GAHC010143632024



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

Case No. : I.A.(CrI.)/737/2024

MD. NAUSHAD ALI
S/O LATE TITA MULLAH @ TITAL SHEIKH,
VILL.- BORCHAKABAHA, P.S.- MIHIRBHETA, DIST.- MORIGAON, ASSAM,
PIN- 782105.

VERSUS

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

2:MUSTT. HABIZA KHATOON
W/O ZAKIR ALI

VILL.- BORCHAKABAHA
P.S.- MIHIRBHETA
DIST.- MORIGAON
ASSAM
PIN- 782105

Advocate for the Petitioner : MRS. S KHATANIAR (LEGAL AID COUNSEL),

Advocate for the Respondent : PP, ASSAM,

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

ORDER

Date : 14.08.2024

[Manish Choudhury, JJ]

Heard Ms. S. Khataniar, learned Legal Aid Counsel for the applicant-appellant and Mr. K.K. Das, learned Additional Public Prosecutor for the opposite party no. 1, State of Assam.

2. The applicant as the appellant has preferred this criminal appeal from jail against a Judgment and Order dated 13.03.2024 passed by the Court of learned Additional Sessions Judge-cum-Special Judge [POCSO], Morigaon [‘the Special Court’, for short] in POCSO Case no. 39/2018. By the said Judgment and Order, the applicant-appellant has been convicted for the offence under Section 6, Protection of Children from Sexual Offences [POCSO] Act, 2012 and he has been sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 20,000/-, in default of payment of fine, to undergo further rigorous imprisonment for 3 [three] months.

3. The applicant-appellant has explained in paragraph 2 (of the instant application) the reasons for the delay of 64 days.

4. Mr. K.K. Das, learned Additional Public Prosecutor appearing for the State has submitted that since the applicant-appellant has been convicted for serious offences and also *inter-alia* sentenced for life imprisonment, under Section 6, POCSO Act, interest of justice would be better sub-served if the accompanying appeal is heard on merit.

5. In respect of this application for condonation of delay to the opposite party no. 2/informant is dispensed with at the stage with the observation that the opposite party no. 2/informant will have participatory right in the accompanying criminal appeal in the event the same is admitted for hearing.

6. Having gone through the reasons given in the application as regards the delay, we are of the considered view that the applicant-appellant has been able to explain the reasons for delay of 64 days showing sufficient cause.

7. In the above view of the matter; and as the applicant-appellant is undergoing life imprisonment; interest of justice will be better subserved if the criminal appeal is heard on merits, by condoning the delay of 64 days.

8. Accordingly, the instant application seeking condonation of delay of 64 days in preferring the accompanying appeal stands allowed.

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

JUDGE

JUDGE

Comparing Assistant