

GAHC010146902024



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

Case No. : I.A.(Crl.)/714/2024

RANJAN DEKA
S/O LATE BIPIN DEKA,
R/O DOLONGDIA,
P.S.- GARESWAR, DIST.- BAKSA (BTAD).

VERSUS

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

2:DIPAK BARMAN
S/O DHARMESWAR BARMAN

R/O BORAGAON
GANDHIPARA
P.S.- GARCHUK
DIST.- KAMRUP METRO
ASSAM

Advocate for the Petitioner : MR B M DEKA, MR. S SARKAR,MR K THAKUR,MR D MEDHI

Advocate for the Respondent : PP, ASSAM,

Linked Case :

RANJAN DEKA

VERSUS

THE STATE OF ASSAM AND ANR G

Advocate for : MR B M DEKA

Advocate for : appearing for THE STATE OF ASSAM AND ANR G

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

ORDER

09.08.2024

[Manish Choudhury, J.]

Heard Mr. K. Thakur, learned counsel for the applicant-appellant and Ms. A. Begum, learned Additional Public Prosecutor for the opposite party no. 1 State.

2. The instant application under Section 5 of the Limitation Act, 1963 is preferred seeking condonation of delay of 168 days, stated to have occurred in filing the accompanying criminal appeal under Section 374[2], Code of Criminal Procedure [CrPC], 1973. The accompanying criminal appeal is preferred against a Judgment & Order dated 04.12.2023 passed by the Court of learned Additional Sessions Judge –cum- Special Judge [POCSO], Kamrup [M], Guwahati [‘the Special Court’, for short] in Sessions Case no. 300 of 2017, arising out of Gorchuk Police Station Case no. 89/2015. By the Judgment & Order dated 04.12.2023, the applicant-appellant has been convicted for the offence under Section 4 of Protection of Children from Sexual Offences [POCSO] Act, 2012 and he has been sentenced to rigorous imprisonment for 25 years and to pay a fine of Rs. 10,000/-, in default of payment of fine, to undergo simple imprisonment for another 3 [three] months.

3. The applicant-appellant has explained the reasons for the delay of 168 days in

preferring the accompanying appeal in paragraph nos. 3, 4 and 5 of the application.

4. We have gone through the statements and averments made in this application, more particularly, in paragraph nos. 3, 4 and 5 thereof.

5. Ms. Begum, learned Additional Public Prosecutor for the opposite party no. 1 State has submitted that no instruction has been received to oppose the instant application, which has been preferred for condonation of delay in preferring the accompanying criminal appeal.

6. Having considered the reasons shown for the delay, we find that the applicant-appellant has been able to explain the period of delay showing sufficient cause. In any view of the matter, we find that ends of justice will be better subserved if the accompanying appeal is heard on merits, as the applicant-appellant has been sentenced to rigorous imprisonment for 25 years. Accordingly, the instant application is allowed condoning the period of delay of 168 days beyond the period of limitation.

7. The period of delay has been condoned without issuing notice to the opposite party no. 2-informant at this stage as the opposite party no. 2-informnant will have participatory right in the accompanying criminal appeal.

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

JUDGE

JUDGE

Comparing Assistant