

GAHC010162902024



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

Case No. : I.A.(Crl.)/744/2024

TARUN DAS
S/O LATE KUNJA BACHAN DAS,
R/O SURJYA NAGAR, P.S.- BARPETA ROAD, DIST.- BARPETA, ASSAM.

VERSUS

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

2:BILLAL SK
S/O LT. TAJIMUDDIN SK
VILL.- GHILAGURI P.S. AND DIST.- BONGAIGAON
ASSAM

Advocate for the Petitioner : MS. L DEVI (LEGAL AID COUNSEL),
Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

21.08.2024

[Manish Choudhury, J.]

Heard Mr. R.K. Deb Choudhury, 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 26 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 dated 03.05.2024 passed by the Court of learned Special Judge, Bongaigaon in Special [P] Case no. 85 [BGN] of 2022. By the Judgment dated 03.05.2024, the applicant-appellant has been convicted for the offence under Section 6 of Protection of Children from Sexual Offences [POCSO] Act, 2012 and he has been sentenced to rigorous imprisonment for 20 years and to pay a fine of Rs. 5,000/-, in default of payment of fine, to undergo rigorous imprisonment for 1 [one] month.

3. We have gone through the statements and averments made in this application.

4. 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.

5. 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 20 years. Accordingly, the instant application is allowed condoning the period of delay of 26 days beyond the period of limitation.

6. 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-informant will have participatory right in the accompanying criminal appeal.

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

JUDGE

JUDGE

Comparing Assistant