

GAHC010182982023



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

Case No. : Crl.A./321/2023

PRANJAL BORA @ PRANJAL DEEP BORA
S/O LATE SASTIRAM BORA,
VILL.- BELROL, P.S.- MIKIRBHETA, DIST.- MORIGAON, ASSAM.

VERSUS

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

2:PRADIP KUMAR KAKOTI
S/O LATE RUDRARAM KAKOTI

VILL.- KAMARKUCHI
P.S.- NALBARI
DIST.- NALBARI
ASSAM
PIN- 781347

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

Linked Case : I.A.(Crl.)/788/2023

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Advocate for : MR. A CHAUDHURY
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 22.02.2024

Heard Mr. B.K. Mahajan, learned counsel for the applicant. Mr. R.R. Kaushik, learned Public Prosecutor for the State/respondent.

2. This is an application under Section 389(3) Cr.P.C. praying for granting bail by suspending sentence pending appeal to the applicant against the judgment and order dated 27.07.2023 passed by the learned Sessions Judge, Morigaon in Sessions Case No. 58/2015, whereby convicting the accused/applicant and sentenced him to undergo rigorous imprisonment for 7(seven) years.

3. The learned counsel for the applicant submits that as per statement of the witnesses, after marriage, the petitioner and the deceased had lived their conjugal life peacefully. It is also submitted

that there are lots of contradictions in the evidence of the witnesses and there is every possibility of acquittal of the applicant in the case. Considering these aspects, the applicant be released on bail during pendency of the appeal.

4. By referring the judgment of Kiran Kumar vs. State of M.P., reported in (2001) 9 SCC 211, the learned counsel for the applicant has pointed out that the Hon'ble Supreme Court held that "this Court has held in Bhagwan Rama Shinde Gosai v. State of Gujarat that when a person is convicted and sentenced to a short-term imprisonment the normal rule is that when his appeal is pending the sentence should be suspended and rejection is only by way of exception and be put forward for such rejection. In such case also every endeavour should be made to have the appeal posted for early hearing and disposal. If the short-term sentence is allowed to run out during the pendency of the appeal, the appeal itself will become, for all practical purposes, infructuous so far as the appellant is concerned. It does not mean that the appellate court should suspend the sentence, if its consequence would be a danger to the society or any other similar difficulties."

5. According to learned counsel for the applicant, considering the aforesaid legal proposition, the applicant be released on bail during pendency of the appeal.

6. On the other hand, Mr. Goswami, learned Additional Public prosecutor submits that on the basis of the sentence imposed on the petitioner, bail may be granted during pendency of the appeal without going into the merits of the case.

7. I have considered the submissions made by the learned counsel for the parties as well as perused the judgment of Hon'ble Supreme Court.

8. In view of the aforesaid legal proposition as well as the back ground of the case, this Court is of the view that the prayer of the applicant may be considered.

9. Accordingly, the accused-applicant, named above, shall be released on bail suspending the sentence during appeal in connection with Sessions Case No. 58/2015, under Section 304B IPC, subject to the following conditions :

(i) The applicant shall furnish a bail bond of Rs.30,000/- with two suitable sureties each of the like amount to the satisfaction of the learned Sessions Judge, Morigaon.

(ii) The learned Sessions Judge, Morigaon will be at liberty to impose any condition(s) while releasing the applicant on bail.

10. Nothing in this order shall be construed as an expression of opinion on the merits of the pending criminal appeal.

11. In view of the above, interlocutory application stands disposed of.

JUDGE

Comparing Assistant