

GAHC010188112023



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

Case No. : I.A.(CrI.)/784/2023

RATUL KALITA @ DOTUA
S/O UMESH KALITA, R/O WARD NO. 8, PALASHBARI, P.O. AND P.S.-
PALASHBARI, DIST.- KAMRUP, ASSAM.

VERSUS

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

2:MALATI DAS
W/O LT. RATNESWAR DAS
R/O PALASHBARI WARD NO. 2
PALASHBARI
P.O. AND P.S.- PALASHBARI
DIST.- KAMRUP
ASSAM

Advocate for the Petitioner : MR P SARMA, MR. A. J. DAS,MS. T R KALITA,MR. K PATHAK

Advocate for the Respondent : PP, ASSAM,

Linked Case : CrI.A./320/2023

RATUL KALITA @ DOTUA
S/O UMESH KALITA

R/O WARD NO. 8
PALASHBARI

P.O. AND P.S.- PALASHBARI
DIST.- KAMRUP
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R/O PALASHBARI WARD NO. 2
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DIST.- KAMRUP
ASSAM.

Advocate for : MR P SARMA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 12.09.2024

Heard Mr. H. Baruah, learned counsel for the applicant. Mr. B.B. Gogoi, learned Public Prosecutor for the State/respondent No.1 and Mrs. D. Borpujari Deka, learned Legal Aid counsel for the respondent No.2.

2. This is an application under Section 389 Cr.P.C. praying for granting bail by suspending sentence pending appeal to the applicant against the judgment and order dated 20.07.2023 passed by the learned Additional Sessions Judge cum Special Judge (POCSO), Kamrup, Amingaon, Assam, in connection with Spl(P) Case No. 45/2019, wherein the applicant was convicted under Section 366/341

IPC and sentenced to undergo simple imprisonment for one month under Section 341 IPC and also rigorous imprisonment for five years for the offence under Section 366 IPC and to pay a fine of Rs.30,000/-, in default simple imprisonment for six months.

3. The learned counsel for the applicant submits that the applicant may be allowed to go on bail till disposal of the appeal. It is also submitted that there are lots of contradictions in the evidence of the witnesses including the victim as such, there is every possibility of acquittal of the applicant.

4. On the other hand, Mr. Gogoi, learned Additional Public prosecutor submits that he has no objection if the prayer of the applicant is allowed.

5. The learned Legal Aid counsel for the respondent No. 2 submits that she has no objection regarding the prayer of the applicant.

6. I have considered the submissions made by the learned counsel for the parties as well as perused the judgment of the learned trial court.

7. Considering the sentence imposed by the learned trial court, without further going into the merit of the case, prayer of the applicant is allowed.

8. Accordingly, the applicant, namely Ratul Kalita @ Dotua, shall be released on bail suspending the sentence during pendency of appeal in connection with Spl(P) Case No. 45/2019, subject to the following condition:

(i) The applicant shall furnish a bail bond of Rs.20,000/- with one suitable surety of the like amount to the satisfaction of the learned Additional

Sessions Judge cum Special Judge (POCSO), Kamrup, Amingaon, Assam.

(ii) The learned Additional Sessions Judge cum Special Judge (POCSO), Kamrup, Amingaon, Assam, will be at liberty to impose any condition(s) while granting bail to the applicant.

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

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

JUDGE

Comparing Assistant