

GAHC010193512023



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

Case No. : I.A.(Crl.)/795/2023
in
Crl. A. No. 80/2022

SRI RAJEN BAWRI,
S/O LATE SONATAN BAWRI,
VILLAGE JALLAN T.E LINE NO. 4, PO BENGENAKHOWA, PS GOLAGHAT,
DIST GOLAGHAT, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PUBLIC PROSECUTOR, ASSAM

2:SABITA KARMAKAR
W/O MAHESH KARMAKAR

VILLAGE JALLAN BAGAN
PO BENGENAKHOWA
PS GOLAGHAT
DIST GOLAGHAT
ASSA

Advocate for the Petitioner : MR J ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

17-07-2024

Heard Mr. J. Islam, learned counsel for the applicant/appellant and Mr. B. Sharma, learned Additional Public Prosecutor, Assam for the State.

The learned Special Judge (POCSO), Golaghat in Special (POCSO) Case No.39/2018, arising out of Golaghat P.S. Case No.598/2018, by judgment dated 10.02.2021 convicted the applicant/appellant under Sections 448/376 (2) (1) IPC and sentenced him to undergo Rigorous Imprisonment for 3 months for the offence under Section 448 IPC and further to undergo Rigorous Imprisonment for 10 years with a fine of Rs. 5,000/-, in default to undergo further imprisonment for 3 months for committing the offence under Section 376 (2) (1) IPC, where both the sentences to run concurrently, setting off the period of detention already undergone by him.

Against the said judgment of conviction and sentence dated 10.02.2021, passed by the learned Special Judge (POCSO), Golaghat, the applicant as appellant preferred the connected appeal being Crl. A. No. 80/2022, which was already admitted for hearing by order dated 11.05.2022.

By this application filed under Section 389 Cr.P.C. the applicant/appellant has prayed for suspension of the said impugned judgment and order dated 10.02.2021, passed by the learned Special Judge (POCSO), Golaghat in said Special (POCSO) Case No.39/2018 enabling him to go on bail.

From the records of the case, it is seen that during the investigation of the case, the applicant/appellant was arrested on 11.08.2018 and he was released on bail on 16.11.2018, after granting bail by the learned Special Judge (POCSO), Golaghat on 15.11.2018.

On 10.02.2021, after passing of the judgment by the learned Special Judge (POCSO), Golaghat, the applicant/appellant was taken into custody and since then, he is serving the sentence in the District Jail at Golaghat.

Considering the materials placed before the Court by the learned Additional Public Prosecutor, Assam from the objection petition filed on behalf of the State, more particularly, the involvement of the applicant/appellant in the crime, that too, with a specially abled and mentally retarded victim girl and considering the period in custody as noted above, the Court is not inclined to grant bail to the applicant/appellant at this stage.

Accordingly, this Interlocutory Application of the applicant/appellant stands rejected.

JUDGE

Comparing Assistant