

GAHC010210432023



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

**Case No. : I.A.(CrI.)/927/2023**

MUSHARAF ALI  
S/O LATE KITAB ALI,  
VILL.- NEW COLONY, PAGLASTAHN COLONY, P.S.- BONGAIGAON, DIST.-  
BONGAIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR.  
REP. BY THE LEARNED PROSECUTOR.

2:KALI DUTTA  
S/O LATE JOGESH DUTTA

R/O- NEW COLONY  
KALI BARI  
P.S.- BONGAIGAON  
DIST.- BONGAIGAON

**Advocate for the Petitioner : MR. M K DAS (LEGAL AID COUNCIL)**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE  
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

**ORDER**

**Date : 23.02.2024**

Heard Mr. M. K. Das, learned Legal Aid Counsel for the applicant. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 5 of the Limitation Act, 1963, praying for condonation of delay of 148 days in preferring the connected appeal against the judgment and order dated 28.02.2023, passed by the learned Special Judge, Bongaigaon in Special (P) Case No. 10(BGN) of 2022, whereby the applicant has been convicted under Section 10 of the POCSO Act, 2012 and sentenced to undergo Rigorous Imprisonment for 5 years and also to pay a fine of Rs. 30,000/- and in default to undergo Simple Imprisonment for 3 (three) months.

Mr. M. K. Das, learned Legal Aid Counsel for the applicant, has submitted that the delay in preferring the connected appeal has occurred as the matter was allotted to the Legal Aid Counsel only on 27.07.2023 by the High Court Legal Services Committee and thereafter only, the records were transmitted him and accordingly, it took some time to prepare the appeal memo and thus there occurred a delay of 148 days in preferring the connected appeal. The grounds of delay has already been mentioned in paragraph Nos. 5 & 6 of the petition. Accordingly, it is submitted that the delay is not deliberate but a *bona fide* one and, therefore, it is prayed to condone the same.

In this context, Mr. K. K. Das, learned Additional Public Prosecutor, raised no objection in condoning the delay of 148 days in preferring the connected appeal.

In view of above and also for the ends of justice, this Interlocutory Application is hereby allowed and the delay of 148 days in preferring the connected appeal stands condoned.

Registry to register the connected appeal and list the same for Admission hearing in usual course.

The Interlocutory Application stands disposed of in terms above.

**JUDGE**

**Comparing Assistant**