

GAHC010210752023



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

Case No. : I.A.(CrI.)/901/2023

JULON BARUAH @ KACHU
S/O SRI LOHIR BARUAH, VILL.- BAHBARI, DEKACHUBURI, P.O.-
BINDUKURI, UNDER TEZPUR POLICE STATION IN THE DISTRICT OF
SONITPUR, ASSAM, PIN- 784502.

VERSUS

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

2:SIMA DAS
W/O SRI JITU MISHRA

VILL.- BAHBARI
UNDER TEZPUR POLICE STATION IN THE DISTRICT OF SONITPUR
ASSAM
PIN- 784502

Advocate for the Petitioner : MR. N AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 18.04.2024

Heard Mr. B.K. Mahajan, learned counsel for the applicant/appellant. Also heard

Mr. D.P. Goswami, learned Additional Public Prosecutor, Assam.

This application under Section 389 Cr.P.C. has been preferred by the applicant, Shri Julon Baruah @ Kachu for suspension of sentence and to release the applicant on bail.

It is to be noted that by the judgment and order dated 10.08.2023, the learned Additional Sessions Judge (FTC), Sonitpur, Tezpur in connection with Sessions Case No.88/2020 the accused appellant has been convicted under Section 376 IPC and sentenced to undergo RI for 10 years and to pay a fine of Rs.10,000/- in default to pay fine, the accused to undergo SI for three months.

Learned counsel for the applicant submits that there are lots of contradictions in the evidence of the witnesses. The I/O also has proved the contradiction appearing in the statement of the victim girl which has not been stated before the I/O during investigation. Learned counsel for the applicant further submits that the evidence of medical officer also did not support the prosecution case. According to the learned counsel for the applicant/appellant, there is every possibility of acquittal of the applicant in this case.

On the other hand, learned Additional Public Prosecutor has made objection in suspending the sentence by stating that on perusal of the evidence of the witnesses it reveals that the accused had love affairs with the victim girl and on the date of occurrence, the accused petitioner had committed rape on the victim without her consent.

I have considered the submission of the learned counsel for the parties and also perused the judgment of the trial court. From the statement of the victim, it reveals that there are some contradictions in her statement while recording by the I/O during investigation and subsequently before the trial Court. In her cross examination, it was specifically stated by the victim that had the accused been married her, this case might have not been arisen.

In view of the above and without further going into the merit of the case, the prayer of the applicant is allowed by suspending sentence till disposal of the appeal.

The applicant named above shall be released on bail on furnishing bail bond of **Rs.50,000/-** with a suitable surety of the like amount, to the satisfaction of learned Additional Sessions Judge, FTC, Sonitpur, subject to the condition that the applicant shall not leave the territorial jurisdiction of the trial court without prior written permission from him/her till disposal of the appeal.

In terms of the above, the I.A. stands disposed of.

JUDGE

Comparing Assistant