

GAHC010213652023



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

Case No. : Crl.A./353/2023

PRIYA KR. NATH
S/O LATE BHABANI NATH,
R/O NARIKALBASTI, BAMUNIMAISUM, P.S.- CHANDMARI, DIST.- KAMRUP
(M), ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY THE PUBLIC POSECUTOR.

2:HEMANTI DAS
W/O SRI JOGEN DAS

VILL.- BAUSIAPARA
P.S.- BELSOR
DIST.- NALBARI
ASSAM
PIN- 781304

Advocate for the Petitioner : MR. P J MEDHI, MR B DEORI,MS J BARMAN,MR N
BARMAN,MR B SINHA,MS. D KAKATI

Advocate for the Respondent : PP, ASSAM, MR. U CHOUDHURY(LEGAL AID COUNSEL FOR
R-2)

Linked Case : I.A.(Crl.)/892/2023

PRIYA KR. NATH

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R/O NARIKALBASTI
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Advocate for : MR. P J MEDHI
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 10.09.2024

Heard Mr. N. Barman, learned counsel for the applicant. Also heard Mr. B. Sarma, learned Public Prosecutor for the State/respondent No.1 and Mr. U. Choudhury, learned Legal Aid counsel for the respondent No. 2.

2. This is an application under Section 389(1) Cr.P.C. praying for granting bail by suspending sentence pending appeal to the applicant in connection with the judgment and order dated 24.08.2023 passed by the learned Special Judge (POCSO), Nalbari, Assam, in connection with Spl. Case No. 14/2022, whereby

convicted the applicant to undergo simple imprisonment for six months for the offence under Section 448 of IPC and simple imprisonment for four years and to pay a fine of Rs.5,000/- for the offence under Section 8 of POCSO Act, in default of payment of fine to undergo simple imprisonment for six months.

3. The learned counsel for the applicant submits that there are lots of contradictions in the statement of the victim while recording under Section 161 and 164 Cr.P.C. and subsequently, her evidence before the learned trial court. It also appears from the evidence of the informant who is the mother of the victim that there are discrepancies in the evidence of P.W.1 and P.W.2 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. On the other hand, Mr. Sarma, learned Additional Public prosecutor for the State and Mr. Choudhury, learned Legal Aid counsel for the respondent No. 2 have raised strong objection in regard to the prayer of the applicant.

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

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

7. Accordingly, the appellant-applicant, named above, shall be released on bail suspending the sentence during appeal in connection with Special Case No. 14/2022, under Section 448 IPC r/w Section 8 of POCSO Act, 2012, subject to the following conditions :

(i) The applicant shall furnish a bail bond of Rs.50,000/- with two suitable sureties each of the like amount to the satisfaction of the learned Special Judge (POCSO), Nalbari, Assam.

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

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

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

JUDGE

Comparing Assistant