

GAHC010220612023



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

Case No. : I.A.(CrI.)/947/2023

BAPMONI DEKA
S/O LATE HARENDRA DEKA,
VILL.- SOLMARI, P.S.- MORIGAON, DIST.- MORIGAON, ASSAM, PIN- 782126.

VERSUS

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

2:PUSPALATA BHARALI
W/O SRI DHIRENWAR BHARALI
VILL.- SOLMARI
DIST.- MORIGAON
ASSAM
PIN- 782126

Advocate for the Petitioner : MR D K BHATTACHARYYA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 04.04.2024

Heard Mr. D. K. Bhattacharyya, learned counsel for the applicant.

This application under Section 5 of the Limitation Act, 1963 has been filed by

the applicant, namely, *Bapmoni Deka* for condoning the delay of 87 days in preferring the criminal appeal against the judgment and order dated 02.05.2023 passed by learned Special Judge (POCSO), Morigaon in POCSO Case No. 89/2021 whereby the applicant has been convicted under Section 18 of the POCSO Act, 2012 and was sentenced to undergo imprisonment for ten years and to pay a fine of Rs.10,000/- and in default to undergo further imprisonment for three months.

The applicant was also convicted under Section 451 of the Indian Penal Code and was sentenced to undergo rigorous imprisonment for one year and also to pay a fine of Rs.2,000/- and in default of payment of fine to undergo simple imprisonment for one month.

The learned counsel for the applicant has submitted that after the delivery of judgment dated 02.05.2023, the applicant was sent to jail and being poor and without any resources to pursue his appeal, he was unable to prefer the instant appeal and it is only when the associates of 'Studio Nilima' an organization engaged in Collaborative Network for Research and Capacity Building had visited the Central Jail, Morigaon and he was apprised of his rights, the steps were taken for preferring the present appeal.

The learned Additional Public Prosecutor considering the grounds mentioned in the condonation of delay petition does not oppose the prayer for condoning the delay.

In view of the fact that the prayer for condonation of delay has not been opposed by the learned Additional Public Prosecutor as well as in view of the fact that the ground shown by the applicant in paragraph No. 7 of the application appears to be sufficient reasons which had prevented the applicant in preferring the appeal within the period of limitation, the prayer for condoning the delay is hereby allowed.

Let the connected criminal appeal be registered and thereafter list it again after a week.

JUDGE

Comparing Assistant