

GAHC010232522023



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

I.A.(CrI.)/998/2023

RAJIUL HOQUE @ RAJIUL KARIM
S/O SAMUD DOHA
VILL.- BAR GIRAIRPAR
P.S.- BILASIPARA
DIST.- DHUBRI
ASSAM
PIN- 783348.

VERSUS

THE STATE OF ASSAM AND ANR.
TO BE REP. BY P.P.
ASSAM.

2:ABDUL HAI
S/O KHOYBAR ALI
VILL.- BOROGIRAIPAR
P.S.- BILASIPARA
DIST.- DHUBRI
ASSAM
PIN- 783348.

Advocate for : MS. T SOM
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI

19-04-2024

By making this interlocutory application, under Section 389 of the Cr.P.C., the applicant/appellant has prayed for releasing him on bail and for stay of the impugned judgment and order dated 21-09-2023, passed by the learned Special Judge, Bilasipara, Dhubri, in Special (POCSO) Case No. 28 of 2021.

I have heard Ms. T. Som, learned counsel appearing for the applicant/appellant as well as Mr. R. J. Baruah, learned Additional Public Prosecutor, Assam appearing for the State respondent.

The learned counsel for the applicant/appellant has submitted that as per the Medical Report the applicant was major at the time of the incident. The Medical Officer opined that the approximate radiological age of the victim was about 18-19 years, but the learned trial court did not appreciate the matter in its true perspective and convicted the applicant/appellant under Section 8 of the POCSO Act.

It is further submitted that there are lots of contradictions in the statement of the victim while she was examined during investigation by the Investigating Officer under Section 161 Cr.P.C. and in her statement recorded by the Magistrate under Section 164 Cr.P.C. as well as in her evidence before the trial Court. Accordingly, the contradictions in the statements of the victim have been proved by examining the Investigating Officer before the trial Court.

The learned counsel for the applicant/appellant submits that under such backdrop there is every possibility of acquittal of the applicant/appellant, and

prays for bail and stay of the impugned judgment and order has been made.

On hearing the learned counsel for both sides and perusal of the impugned judgment and order dated 21-09-2023, passed by the learned Special Judge, Bilasipara, Dhubri, in Special (POCSO) Case No. 28 of 2021, it is provided that the operation of the sentence passed therein shall remain stayed till disposal of the connected Criminal Appeal No. 382 of 2023.

The applicant/appellant is directed to be released on bail of **Rs.50,000/-** with **two sureties** each of the like amount to the satisfaction of the learned **Special Judge, Bilasipara, Dhubri**, with condition that the applicant/appellant shall not leave the territorial jurisdiction of the learned Special Judge, Bilasipara, Dhubri without prior written permission from him.

The Interlocutory Application stands disposed of accordingly.

JUDGE

Comparing Assistant