

GAHC010232562023



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

Case No. : I.A.(Crl.)/1004/2023

SUNIL THAPA
S/O LAL BAHADUR THAPA,
VILL.- CHUNGAJAN, NO. 4 DAGAON, P.S.- VHUNGAJAN, DIST.-
GOLAGHAT, ASSAM.

VERSUS

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

2:ARUN DAS
S/O BIREN DAS
R/O BORHOLLA BIJAY NAGAR
P.O.- URANGIAL
P.S.- BORHOLLA
DIST.- JORHAT

Advocate for the Petitioner : MRS DIPANJALI BORPUJARI (LEGAL AID COUNSEL)

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

20.04.2024

Heard Ms. D. Borpujari, learned legal aid counsel for the applicant and Mr. B. Sarma, learned Additional Public Prosecutor, Assam, appearing for the State

respondent No.1.

This interlocutory application is preferred by the applicant, namely, Sunil Thapa for condonation of delay of 87 days in filing connected criminal appeal, against the judgment and order dated 08.05.2023, passed by the learned Special Judge, Jorhat, in Special Case No.51/2019. It is to be noted here that vide said judgment and order, the learned Court below has convicted the applicant under Section 376 IPC, read with Section 4 of the POCSO Act and sentenced him to suffer rigorous imprisonment for 10 years and also to pay a fine of Rs.10,000/- with default stipulation.

Ms. Borpujari, learned legal aid counsel for the applicant submits that the ground for delay in filing connected criminal appeal has been mentioned in paragraphs 9 and 10 of this interlocutory application and further, submits that she has received the letter of assignment dated 19.09.2023, from the Gauhati High Court Legal Services Committee on 20.09.2023 and thereafter, she has collected the relevant documents and prepared the appeal and filed the same on 09.10.2023 and in the entire process the delay of 87 days occurred and the same is not intentional rather it is circumstantial and therefore, it is contended to allow the petition.

Mr. B. Sarma, learned Additional Public Prosecutor, Assam, on the other hand, submits that he has no objection in the event of condoning the delay of 87 days.

Having heard the submission of learned Advocates of both the parties, I have carefully gone through the petition and the documents placed on record and also perused the statement and averment made in paragraphs 9 and 10 of this interlocutory application. And it appears that the delay of 87 days is sufficiently explained and the same appears to be not intentional rather circumstantial and accordingly, this Court is inclined to allow this petition.

The delay of 87 days in filing connected criminal appeal stands condoned.

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

Registry to register and number the connected criminal appeal and list the same before the Court.

Sd/- *Robin Phukan*
JUDGE

Comparing Assistant