

GAHC010235662022



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

Case No. : I.A.(Crl.)/769/2022

ANIL ROY
S/O LATE SURESH ROY, VILL.- SARATPALLY RANGIRKHARI, P.S.-
SILCHAR, DIST.- CACHAR, ASSAM.

VERSUS

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

2:MONINDRA DAS
S/O DAYANNADA DAS

VILL.- MALUGRAM

P.S.- SILCHAR

DIST.- CACHAR
ASSAM
PIN- 788002

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 16.02.2024

(K.R. Surana, J)

Heard Mr. L.R. Mazumdar, learned counsel for the applicant and Ms. S. Jahan, learned APP for the State.

2. By filing this interlocutory application under Section 389 CrPC, the applicant-appellant has prayed for suspension of sentence vide judgment and order dated 20.09.2022 passed by the learned Special Judge (POCSO), Cachar at Silchar in Special (POCSO) Case No.10/2016 thereby convicting the applicant under Section 6 of the POCSO Act and sentenced him to serve and undergo imprisonment for life and to pay fine of Rs.3,000/- with default stipulation.

3. Pursuant to order dated 20.07.2024, the Superintendent of Central Jail, Silchar by forwarding letter dated 08.02.2024 has forwarded the medical report in respect of the applicant, who is no. Convict AC/9812 Anil Roy by the Medical & Health Officer-1, in-charge, Jail Hospital, Central Jail, Silchar. The contents of the medical report is as under:

“With reference cited above, I have the honour to state that Convict AC/9812 Anil Roy S/o Lt. Suresh Roy aged about 67 years/ male is a known case of Grade-IV prostatomegaly and treatment has been received and being continued under Surgery deptt. of Silchar Medial College and Hospital, Silchar. He is under continues catheterization since two and half years. This leads to on & off unavoidable urinary tract infection which may lead to stenosis and further complications in near future. He is completely unable to pass urine normally. The definitive treatment for his condition is surgical.”

4. The prayer for suspension of sentence and for bail is opposed by the learned APP.

5. However, considering the medical condition of the applicant as

indicated above, the Court is inclined to suspend the sentence imposed upon the applicant vide judgment and order of conviction dated 20.09.2022 passed by the learned Special Judge (POCSO), Cachar at Silchar in Special (POCSO) Case No.10/2016 by allowing the applicant, namely, Anil Roy to go on bail on furnishing fresh bail bond of Rs.1,00,000/- (Rupees one lakh only) with one suitable surety of like amount to the satisfaction of learned trial Court i.e. Special Judge (POCSO), Cachar at Silchar. The bailor and/ or surety shall offer his/ her immovable property as security for grant of bail.

6. Along with the bail bond, the applicant shall also submit an undertaking before the Court of learned Special Judge (POCSO), Cachar at Silchar to surrender before the said learned Court to suffer the sentence awarded against him in the event the appeal is decided against the applicant.

7. Bail is granted on the following conditions:-

a) That the applicants shall not leave the jurisdiction of Silchar District without prior intimation to the Officer-in-charge of Silchar PS.

b) The applicants shall appear before the Officer-in-charge of Silchar PS once a month within seven days of each English calendar month and on their appearance, the Officer-in-charge of Silchar PS shall make a GD entry of his appearance. The Officer-in-charge of Silchar PS shall submit a report to this Court through the office of the Public Prosecutor, Assam at Gauhati High Court in the event the applicant does not appear before him.

c) The applicant is put to notice that on his failure to report to the O/C, Silchar P.S. within 7(seven) days of each English calendar month, the Court may pass an order to recall/ cancel bail granted by this order and order him to be taken into custody.

8. This interlocutory application stands allowed.

JUDGE

JUDGE

Comparing Assistant