

GAHC010238862024



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

Case No. : I.A.(Crl.)/1097/2024

BISHNU PRASAD RAJBHAR
S/O LATE LALDEO RAJBHAR R/O RLY. QTR. NO. E/109/A
B.G. COLONY
P.O. AND P.S. FAKIRAGRAM DIST. KOKRAJHAR
ASSAM PIN-783345

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PP
ASSAM

2:PINTU KUMAR CHAUDHARY
S/O LATE GAURI SHANKAR CHAUDHARY R/O NEW BONGAIGAON
STATION MARKET
P.O. NEW BONGAIGAON
P.S. AND DIST. BONGAIGAON
ASSAM

Advocate for : MR H DAS
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 18.11.2024

Heard Mr. H. Das, learned counsel for the applicant. Also heard Mr. M. P. Goswami, learned Additional Public Prosecutor for the State respondent.

2. This is an application under Section 430 of the BNSS praying for suspension of sentence imposed on the present applicant vide judgment and order dated 09.08.2023, passed by the learned Judicial Magistrate 1st Class, Bongaigaon, Assam in NICR Case No. 22/2022, under Section 138 of the N.I. Act, as well as for suspension of sentence and order dated 18.09.2024, passed by the learned Sessions Judge, Bongaigaon in Criminal Appeal No. 22/2023, whereby the payment of fine of Rs. 3,60,000/- under Section 138 of N.I. Act in default to undergo S.I. for 4 (four) months remain intact.

3. It is submitted by Mr. Das, learned counsel for the applicant, that vide the impugned judgment and order dated 09.08.2024, the present petitioner was sentenced to undergo S.I. for 6 (six) months along with a fine of Rs. 3,60,000/- in default S.I. for another 4 (four) months. However, vide impugned judgment

and order dated 18.09.2024, the learned Session Judge has modified the order and sentence and the applicant was sentenced to pay a fine of Rs. 3,60,000/- under Section 138 of the N.I. Act in default to undergo S.I. for 4 (four) months. He further submitted that the accused/applicant is in custody since 22.10.2024 and accordingly prayed for release of the accused/applicant on bail till disposal of the connected criminal revision petition, being Crl. Rev. P. No. 460/2024 by suspending the sentence imposed on him. He further submitted that during the entire trial, the accused/applicant was on bail and he never jumped over any condition of the bail. More so, he is already in custody for last 22 days and if he remains in further custody, the very purpose of filing the said connected criminal revision petition will become infructuous.

4. Considering the submissions made by the learned counsel for the applicant as well as the other aspects of the case, I find it appropriate to allow this interlocutory application. Accordingly, the operation of the sentence passed by the learned Judicial Magistrate 1st Class, Bongaigaon, Assam in NICR Case No. 22/2022, under Section 138 of the N.I. Act, vide judgment and order dated 09.08.2023, as well as the judgment and order dated 18.09.2024, passed by the learned Sessions Judge, Bongaigaon in Criminal Appeal No. 22/2023, shall remain suspended till disposal of the connected criminal revision petition, being Crl. Rev. P. No. 460/2024.

5. Further, the applicant is hereby allowed to go on bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Judicial Magistrate 1st Class, Bongaigaon, Assam.

6. In terms of above, this interlocutory application stands disposed.

JUDGE

Comparing Assistant