

GAHC010256692023



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

Case No. : I.A.(Crl.)/155/2024

KISHORE MEDHI
S/O-LATE DAMODHAR MEDHI
R/O-VILLAGE-MOLONG GAON
UNDER JENGRAIMUKH POLICE STATION
DISTRICT-MAJULI
ASSAM

VERSUS

THE STATE OF ASSAM AND ANR.
REPRESENTED BY P.P.
ASSAM

2:SRI SUNIL SAIKIA

SON OF LATE JAGAT SAIKIA
R/O-VILLAGE-MOLONG GAON
UNDER JENGRAIMUKH POLICE STATION
DISTRICT-MAJULI
ASSAM(VICTIM)

Advocate for : MRS. P B BORDOLOI

Advocate for : PP

ASSAM appearing for THE STATE OF ASSAM AND ANR.

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

21.02.2024

Heard Mrs. P. B. Bordoloi, learned Legal Aid counsel appearing on behalf of the appellant. Also heard Mr. K. K. Das, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 389 (2) of the Code of Criminal Procedure, 1973 praying for suspension of execution of sentence as well as stay of realization of fine and release of the accused/petitioner on bail, till disposal of the Criminal Appeal (Jail) No.18/2024.

Mrs. Bordoloi, learned Legal Aid counsel has submitted that vide judgment dated 28.07.2023 and order of sentence dated 31.07.2023 passed by the learned Sessions Judge, Majuli in Sessions Case No.18/2023 arising out of Jenraimuh P. S. Case No.47/2023, whereby, the accused/applicant was convicted under Section 326 of IPC and sentenced him to suffer R.I. for 3(three) years and to pay a fine of Rs.10,000/- (Rupees Ten thousand) only and in default of payment of fine to suffer in addition S.I. for another 1(one) month.

She further submitted that there are sufficient contradictions amongst the witnesses and she has also taken good grounds for appeal memo as well as there is chance of acquittal. She also submits that the accused/applicant is the only bread earner of his family and he is the local resident of the address mentioned in the petition and thus, there is no chance of absconding. Accordingly, she prayed to allow the accused/applicant to go on bail, by suspending the sentence imposed against him vide judgment dated 28.07.2023 and order of sentence dated 31.07.2023.

In this context, Mr. Das, learned Additional Public Prosecutor has raised no objection, considering the terms of sentence imposed against the accused/applicant.

Considering the submissions of learned counsel for both sides as well as the considering the terms of conviction imposed against the accused/applicant, this Court is of the opinion that it is a fit case to allow this interlocutory application by suspending the sentence imposed against the accused/applicant vide judgment dated 28.07.2023 and order of sentence dated 31.07.2023 till disposal of the Criminal Appeal (Jail) No.18/2024.

Accordingly, it is provided that on furnishing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Sessions Judge, Majuli, the accused/applicant, namely, Sri Kishore Medhi, be enlarged on bail, with a condition:

- (i) that the applicant shall not leave the jurisdiction of the learned Sessions Judge, Majuli, without prior permission.

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

JUDGE

Comparing Assistant