

GAHC010261382023



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

Case No. : I.A.(Crl.)/1146/2023

MD. FARUK AHMED @ FARUK AHMED CHOUDHURY AND 2 ORS.
S/O LATE ABDUL MANNAN, VILL.- KANISHAIL, P.S. AND DIST.-
KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR.
REPRESENTED BY THE PUBLIC PROSECUTOR, GOVERNMENT OF ASSAM

Advocate for the Petitioner : MR B B NARZARY

Advocate for the Respondent : PP, ASSAM

Linked Case : Crl.A./247/2022

MD. FARUK AHMED @ FARUK AHMED CHOUDHURY AND 2 ORS.
S/O LATE ABDUL MANNAN
VILL.- KANISHAIL P.S. AND DIST.- KARIMGANJ ASSAM

2: MD. SABIR AHMED @ MAJU
S/O FARUK AHMED @ FARUK AHMED CHOUDHURY
VILL.- KANISHAIL P.S. AND DIST.- KARIMGANJ ASSAM

3: JAINA BEGUM
W/O FARUK AHMED @ FARUK AHMED CHOUDHURY
VILL.- KANISHAIL P.S. AND DIST.- KARIMGANJ
ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR.
REPRESENTED BY THE PUBLIC PROSECUTOR
GOVERNMENT OF ASSAM

2:MUSSTT. SABIHA MEHBUB CHOUDHURY
D/O LT. MASUK AHMED CHOUDHURY
R/O VILL- EAST KHANISHAIL
P.O- EAST KHANISHAIL
P.S AND DIST.- KARIMGANJ
ASSAM
PIN- 788711

Advocate for : MR B B NARZARY

Advocate for : PP

ASSAM appearing for THE STATE OF ASSAM AND ANR.

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 10.01.2024

(M. Zothankhuma, J.)

Heard Mr. B. B. Narzary, learned senior counsel, assisted by Mr. S. Chauhan, learned counsel for the applicants/appellants. Also heard Ms. S. H. Bora, learned Addl. Public Prosecutor, appearing for the State and Mr. A. Ahmed, learned counsel for the informant.

This is an application under Section 389 Cr.P.C., praying for suspension of the sentence awarded to the applicants/appellants, pursuant to the judgment and order dated 22.06.2022, passed by the learned Sessions Judge, Karimganj, in Sessions Case No. 88/2012.

The prayer for suspending the sentence and releasing the applicants on bail is based on the medical certificates, apparently issued by the Medical and Health Officer, Jail Hospital, District Jail, Karimganj.

Ms. S. H. Bora, learned Addl. Public Prosecutor, on the other hand, submits that the applicants had earlier filed an application under Section 389 Cr.P.C., praying for suspending the sentence and releasing the applicants on bail and the same had been

dismissed vide order dated 13.03.2023 passed in I.A.(Crl.) 39/2023.

We have heard the learned counsels for the parties. As had been stated by the learned Addl. P.P., the applicants had earlier filed an application under Section 389 Cr.P.C., for suspending the sentence and releasing the applicants on bail. However, the same had been dismissed vide order dated 13.03.2023.

In the present application for suspending the sentence and releasing the applicants on bail, the applicants have relied upon medical certificate dated 15.01.2023, wherein the applicant No. 1 is to attend the MOPD. The certificate dated 02.09.2023, issued in favour of the applicant No. 1 and the certificate dated 07.09.2023, issued in favour of the respondent No. 3 by the Medical and Health Officer-I, Jail Hospital, District Jail, Karimganj, show that they have been directed to attend MOPD and SOPD for further management of the ailments that they are experiencing. The latest medical certificate is a letter dated 15.11.2023, issued by the Medical and Health Officer-I, Jail Hospital, District Jail, Karimganj, stating that the applicant Nos. 1 and 3 are to attend the MOPD. As can be seen from the letters/certificates, mentioned above, there is nothing to show that the applicants are suffering from any serious ailments. Further, the letters do not state that the medical problems, being faced by the applicants, cannot be taken care of while they are in jail.

In view of the above, we do not find any reason to suspend the sentence and to release the applicants on bail. However, on a note of caution, we direct that in the event the applicants require any treatment outside the Jail Hospital, the Superintendent of District Jail shall ensure that they are given proper treatment in the district hospital.

The interlocutory application is accordingly rejected and disposed of.

JUDGE

JUDGE

Comparing Assistant