

GAHC010263512023



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

Case No. : I.A.(Crl.)/1129/2023

IBRAHIM ALI AND ANR.
S/O TAIUDDIN ALI @ TAIUDDIN, VILL.- GHOGA BADRIA AKHIYA, P.S.-
MUKALMUA, DIST.- NALBARI, ASSAM.

2: JIYAR ALI @ MD. JIAR ALI @ JIYAB ALI
S/O SIRAJ ALI

VILL.- GHOGA BADRIA AKHIYA

P.S.- MUKALMUA
DIST.- NALBARI
ASSAM

VERSUS

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

2:DIPAK KALITA
S/O BIRESH KALITA

VILL.- RAMPUR (SUJANPARA)

P.S.- PALASHBARI
DIST.- KAMRUP
ASSAM

Advocate for the Petitioner : MR. A T SARKAR, MR. T AHMED,MS S PATAR
Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

12.09.2024

Heard Mr. A. T. Sarkar, learned counsel for the applicant. Mr. B. B. Gogoi, learned Public Prosecutor for the State/respondent No.1.

2. This is an application under Section 389 Cr.P.C. praying for granting bail during pendency of the appeal against the impugned judgment and order dated 07.11.2024 passed by the learned Additional Sessions Judge (POCSO), Amingaon, Kamrup in SPL(P) Case No. 24/2020 whereby the applicants were convicted under Sections 12 of POCOS Act and Section 354D IPC and sentenced to undergo simple imprisonment for three years with fine and also sentenced to undergo simple imprisonment for two years with fine for the offence under Section 506 IPC

3. The learned counsel for the applicant submits that there are lots of discrepancies in the statement of the victim while recorded under Section 164 Cr.P.C. by the learned Magistrate and her evidence before the trial court. There is every possibility of acquittal of the applicant in the case.

4. On the other hand, Mr. Gogoi, learned Additional Public prosecutor submits that he has no objection if the prayer of the applicant is allowed.

5. I have considered the submissions made by the learned counsel for the parties as well as perused the judgment of the learned trial court.

6. Considering the sentence imposed by the learned trial court, without further going into the merit of the case, prayer of the applicant is allowed.

7. Accordingly, the appellant-applicant, named above, shall be released on bail suspending the sentence during appeal in connection with SPL(P) Case No. 24/2020,

under Sections 12 of POCSO Act and Section 354D/506 IPC, subject to the following conditions :

(i) The applicant shall furnish a bail bond of Rs.30,000/- with two suitable sureties each of the like amount to the satisfaction of the learned Special Judge (POCSO), Kamrup, Amingaon.

(ii) The learned Special Judge (POCSO), Kamrup, Amingaon will be at liberty to impose any condition(s) while granting bail to the applicant.

8. Nothing in this order shall be construed as an expression of opinion on the merits of the pending criminal appeal.

9. In view of the above, interlocutory application stands disposed of.

JUDGE

Comparing Assistant