

GAHC010273142023



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

Case No. : I.A.(CrI.)/286/2024

BOBY HATIMURIA AND 2 ORS.
W/O- SHRI PUNESWAR HATIMURIA
R/O- GALAKEY DA GAON
P.O. AND P.S.- GELAKEY
DISTRICT- SIVASAGAR

ASSAM-785696.

2: SHRI PUTUL HATIMURIA
S/O- LATE JAGOT HATIMURIA
R/O- GELAKEY DA GAON
P.O. AND P.S.-GELAKEY
DISTRICT- SIVASAGAR

ASSAM-785696.

3: SMT. DIPA HATIMURIA

W/O- PUTUL HATIMURIA
R/O- GELAKEY DA GAON
P.O. AND P.S.-GELAKEY
DISTRICT- SIVASAGAR

ASSAM-785696.

VERSUS

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

2:SMT. SUMI BARUAH
D/O- SHRI CHANDRA BARUAH
R/O- BHUYAN GAON
P.S.-AMGURI
DISTRICT- SIVASAGAR

ASSAM
PIN-785680.

Advocate for : MR. P D NAIR
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

Linked Case : **CrI.A./83/2024**

BOBY HATIMURIA AND 2 ORS.
W/O- SHRI PUNESWAR HATIMURIA,
R/O -GELAKEY DA GAON, P.O. AND P.S.- GELAKEY, DISTRICT SIVASAGAR,
ASSAM 785696

2: SHRI PUTUL HATIMURIA
S/O- LATE JAGOT HATIMURIA

R/O -GELAKEY DA GAON
P.O. AND P.S.- GELAKEY
DISTRICT SIVASAGAR

ASSAM 785696

3: SMT. DIPA HATIMURIA
W/O- SHRI PUTUL HATIMURIA

R/O -GELAKEY DA GAON
P.O. AND P.S.- GELAKEY
DISTRICT SIVASAGAR

ASSAM 78569

VERSUS

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

2:SMT. SUMI BARUAH
D/O- SHRI CHANDRA BARUAH
R/O- BHUYAN GAON
P.S.- AMGURI
DISTRICT- SIVASAGAR
ASSAM-785680

Advocate for the Petitioner : MR. P D NAIR, MR S R A NASER,MR H ROHMAN,MR G ALAM

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

19/09/2024

Heard Mr. H Rohman, learned counsel for the applicants/appellants and Mr. B Sarma, learned Additional Public Prosecutor, Assam for the State respondent/opposite party.

2. In Sessions Case No. 195(s-s)/2012 arising out of Amguri P.S. Case No. 85/2006 pertaining to a case registered under Sections 366(A)/376/34 IPC corresponding to G.R. No. 758/2006, the learned Additional Sessions Judge, Sivasagar considering the evidence on record in the trial by its judgment dated 31.05.2023 convicted the applicants under Sections 366/34 IPC sentencing them to suffer Rigorous Imprisonment for a period for 7 (seven) years with fine of Rs.3000/- each, in default of payment of fine, Rigorous Imprisonment for another 2 (two) months each, setting off the period of detention already in custody in the said case.

3. After the said judgment of conviction and sentence dated 31.05.2023, the applicants were taken into custody on 31.05.2023 itself and since then, they are in Sivasagar jail serving the sentences.

4. Aggrieved with the judgment of conviction and sentence dated 31.05.2023, noted above, the applicants as appellants preferred a statutory appeal being Crl. A. No. 83/2024 and the Court by order dated 01.05.2024 have already admitted the said appeal.

5. Though, the connected appeal was admitted on 01.05.2024, but the impugned judgment of conviction and sentence dated 31.05.2023 has not been suspended. Hence, this application by those appellants praying for suspension of the operation of the judgment of conviction and sentence dated 31.05.2023 passed the learned Additional Sessions Judge, Sivasagar in Sessions Case No. 195(s-s)/2012 arising out of Amguri P.S. Case No. 85/2006.

6. Perused the records of Sessions Case No. 195(s-s)/2012 that was requisitioned by order dated 01.05.2024.

7. It is seen that the applicants were initially arrested on 23.07.2006 in said Amguri P.S. Case

No. 85/2006 and later they were released on bail on 23.10.2006.

8. During the period of trial of the case, the applicants/convicted accused were on bail and they are in custody since the impugned judgment of conviction and sentence dated 31.05.2023.

9. Perused the evidences of the prosecution witnesses including the prosecutrix/victim and the concerned Investigating Officer of the case, i.e., PW3 and PW9, respectively, as well as the statement of the victim recorded on 22.07.2006 under Section 164 Cr.P.C.

10. It is also seen that the accused persons could not thwart the evidence of the prosecutrix/victim and the concerned Investigating Officer of the case.

11. Considering the materials available in the records, the Court is of the opinion that the petitioners are not entitled for any such interim prayer and bail, as prayed for, relating to said Sessions Case No. 195(s-s)/2012, note above, in this application at this stage.

12. Accordingly, this Interlocutory Application, being devoid of merit, stands rejected.

JUDGE

Comparing Assistant