

GAHC010281412023



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

Case No. : I.A.(Crl.)/1223/2023

BABU SAHEB MUSAHARI @ BABUCHA MUCHAHARY
S/O KANE MUSAHARI
R/O BOGINADI PAMEGAON, GEREKI
P.S. BOGINADI, DIST. LAKHIMPUR, ASSAM

VERSUS

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

2:SRI DIPAK DUTTA
FORESTER GRADE-I

NORTH LAKHIMPUR FOREST RANGE OFFICE
P.O. AND P.S. LAKHIMPUR
DIST. LAKHIMPUR
ASSA

Advocate for the Petitioner : MR S GOGOI

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 09.02.2024

Heard Ms. A. Gogoi, learned counsel for the applicant. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent No. 1 and Mr. D. Gogoi, learned Standing Counsel, Forest Department representing respondent No. 2.

This is an application under Section 389 of the Code of Criminal Procedure, 1973 praying for suspension of sentence and fine imposed on accused/applicant vide judgment and order dated 27.06.2023, passed by the learned Sessions Judge, Lakhimpur, North Lakhimpur in Sessions Case No. 19 (NL) 2021, whereby the appellant was convicted under Section 51 (i) of the Wild Life (Protection) Act, 1972 and sentenced to undergo Rigorous Imprisonment for 2 (two) years and a fine of Rs. 20,000/- (Rupees twenty thousand) only in default of payment of fine to undergo Simple Imprisonment for 6 (six) months.

It is submitted by Ms. Gogoi, learned counsel for the applicant, that the applicant was convicted under Section 51 of the Wild Life (Protection) Act, 1972 and sentenced to undergo R.I. for 2 years along with a fine of Rs. 20,000/- in default to undergo S.I. for 6 months. Further it is submitted that there are sufficient grounds brought by the petitioner while preferring the connected revision petition, being Crl. Rev. P. No. 284/2023, and there is every chance of succeeding in the revision petition. The impugned judgment and order was passed on 27.06.2023 by the learned Sessions Judge, Lakhimpur, North

Lakhimpur in Sessions Case No. 19 (NL) 2021 and against the said judgment and order of the learned Sessions Judge, the connected revision petition has been preferred by the petitioner, wherein, vide order dated 28.07.2023, the notice was issued to the respondents, but no order on stay was passed in the connected revision petition to stay the operation of the impugned judgment and order passed by the learned Sessions Judge. However, another petition was filed by the petitioner before the learned Sessions Judge along with a copy of the order dated 28.07.2023, passed by this Court in Criminal Revision Petition No. 284/2023, and prayed for some more time to file a copy of the stay order of this Court. Accordingly, the learned Sessions Judge fixed the matter on 27.09.2023, however the stay order could not be produced before the learned Sessions Judge as there was no stay order passed in the connected revision petition. Accordingly, NBWA was issued by the learned Court below to execute the sentence imposed on him. Hence, this petition has been filed by the petitioner under Section 389 Cr.P.C. praying for suspending the sentence imposed on the present petitioner till disposal of the connected revision petition.

In this context, Mr. Parasar, learned Additional Public Prosecutor for the State respondent No. 1 as well as Mr. D. Gogoi, learned Standing Counsel, Forest Department representing respondent No. 2, raised no objection and submitted that as the term of conviction is only 2 (two) years, they do not have any objection if the petitioner is enlarged on bail by suspending the sentence imposed on him.

Considering the submissions made by the learned counsels appearing for the parties as well as other aspects of the case, I hereby allow the present

interlocutory application. Accordingly, judgment and order dated 27.06.2023, passed by the learned Sessions Judge, Lakhimpur, North Lakhimpur in Sessions Case No. 19 (NL) 2021, is hereby suspended till final disposal of the connected revision petition, being Crl. Rev. P. No. 284/2023.

Till then, the petitioner is hereby allowed to remain on bail on his executing a bond of Rs. 10,000/- (Rupees ten thousand) only with one surety of like amount to the satisfaction of the learned Sessions Judge, Lakhimpur, North Lakhimpur.

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

JUDGE

Comparing Assistant