

GAHC010283132023



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

Case No. : I.A.(Crl.)/1280/2023

RAHMAT ALI
S/O- BAHADUR ALI, VILL.- BARATALOBA, P.S. DHALIGAON, DIST.-
CHIRANG, BTAD, ASSAM

VERSUS

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

2:NAZRUL HOQUE

S/O- MR.KAJIMUDDIN AHMED
R/O- VILL.- BAIKHUNGAON
P.S. DHALIGAON
DIST.- CHIRANG
ASSAM
PIN- 783385

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 19-02-2024

(MK Kalita, J)

Heard Mr. LR Mazumder, learned counsel for the applicant as well as Ms. S. Jahan, learned APP for the State and Mr. AM Ahmed, learned counsel for the informant.

2. This application under section 389 Cr.P.C., 1973 has been filed by the applicant namely, Rahamat Ali praying for suspension of sentence imposed on the applicant by the judgment and order dated 18.12.2019 passed by the learned Sessions Judge, Chirrang in Sessions Case No.91(D)/2015 [Old Sessions case no.91(D)/2006].

3. The said judgment has been impugned by the present applicant by preferring a connected appeal which has been registered as CrI. A No.7/2022. The contention of the learned counsel for the applicant is that though the applicant has been convicted and sentenced by the learned trial Court, however, only PW-2, PW-3 and PW-4 have adduced incriminating evidence against the present applicant and the said witnesses are not the eyewitnesses.

4. The learned counsel has also submitted that the present applicant has been suffering from ailments and on that ground also he has prayed for suspension of sentence and prayed for allowing the applicant to go on bail during the pendency of the connected criminal appeal.

5. In this regard, a report was called for by this Court by order dated 02.02.2024 from the Superintendent of District Jail, Kokrajhar calling for the status report of the health of the present applicant. We have received the report furnished by the Superintendent of District Jail, Kokrajhar today. On perusal of

the said report it appears that though the present applicant is a patient of Post Cholecystectomy and is also a patient of diabetes. However, the jail hospital is providing treatment to him. He has also been treated for Cardiological ailment and Endocrinological ailment. On perusal of the report it appears that all the vital parameters of the present applicant are within the normal parameters and his diabetes is also under control.

6. Under such circumstances, we are not inclined to scrutinize the evidence in depth at this stage as the same would be done during the hearing of the connected criminal appeal and considering the fact that all the vital parameters of the present applicant are within the normal limits we are not inclined to allow the suspension of sentence of the present applicant at this stage and accordingly this IA is dismissed.

JUDGE

JUDGE

Comparing Assistant