

GAHC010289902023



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

Case No. : I.A.(Crl.)/510/2024

BISWAJIT SARKAR
S/O- SRI SANKAR SARKAR
VILL- KOKRAJHAR WARD NO. 1
BANDERPUR
P.S.- KOKRAJHAR
DIST- KOKRAJHAR
ASSAM.

VERSUS

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

2:SANTI SARKAR
D/O- LATE SARAT SARKAR
VILL- R.K. ROAD
THURIBARI
P.S.- BASUGAON
DIST- CHIRANG
ASSAM.

Advocate for : MR P K DAS
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 24.06.2024

- 1.** Heard Mr. P. K. Das, learned counsel for the applicant. Also heard Mr. M. P. Goswami, learned Additional Public Prosecutor for the State respondent.
- 2.** This is an application under Section 389 of the Code of Criminal Procedure, 1973, praying for suspension of sentence dated 11.09.2023 passed by the learned Special Judge, Chirang in Special POCSO Case No. 16/2020, arising out of Basugaon P.S. Case No. 23/2020, whereby the applicant was convicted under Section 366 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 3(three) years with fine of Rs.10,000/- in default to undergo imprisonment for one year.
- 3.** It is submitted by the learned counsel for the applicant, Mr. P. K. Das, that the accused/applicant is innocent and he is no way involved in the alleged offence, rather the victim herself eloped at her own. Though the case was earlier registered under Section 4 of the POCSO Act, but subsequently he was convicted under Section 366 of the I.P.C. and sentenced to undergo Rigorous Imprisonment for 3 years. He further submitted that the accused/applicant is a permanent resident of his addressed locality and there is no chance of absconding, if he is allowed to go on bail by suspending/staying the operation of impugned Judgment and Order dated 11.09.2023. He further submitted that the accused/applicant was on bail during the trial of the case and he never jumped over any conditions of the bail. Accordingly, it is prayed for suspension of sentence imposed on accused/applicant and also prayed to allow the accused/

applicant to go on bail during the pendency of the connected appeal.

4. In this context, the learned Additional Public Prosecutor, Mr. M. P. Goswami, has submitted that as the accused is sentenced for 3 years, he raised no objection in granting bail to the accused/applicant by suspending sentence imposed on him vide Judgment and Order dated 11.09.2023.

5. Considering the submissions made by the learned counsels of both sides as well as considering the materials available on record and also considering the conduct of the accused/ applicant, I find it appropriate to allow the present applicant to go on bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the learned Special Judge, Chirang, Assam and further till disposal of the connected appeal, the operation of impugned Judgment and Order dated 11.09.2023 be stayed/suspended.

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

JUDGE

Comparing Assistant