

GAHC010290252023



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

I.A.(Crl.)/98/2024

PARASH JAIN
S/O LT. SHREE CHAND GULGULIA
R/O TOKOBARI
P.S.- BHARALUMUKH
DIST.- KAMRUP(M)
ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY PUBLIC PROSECUTOR.

2:REKHA SHARMA
W/O SANTOSH SHARMA

R/O TOKOBARI

P.S.- BHARALUMUKH
DIST.- KAMRUP(M)
ASSAM.

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

Case No. : Crl.A./31/2024

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S/O LT. SHREE CHAND GULGULIA,
R/O TOKOBARI,

P.S.- BHARALUMUKH, DIST.- KAMRUP(M), ASSAM.

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ASSA

Advocate for the Petitioner : MR. P K ROYCHOUDHURY, MR. A DEY,MD. A KHAN

Advocate for the Respondent : PP, ASSAM, MR. SURAJIT DAS, AMICUS CURAIE(R-2)

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 11.12.2024

Heard Mr. P. K. Roy Choudhury, learned counsel appearing for the applicant. Also heard Ms. N. Das, learned Additional Public Prosecutor for the state of Assam and Mr. S. Das, learned counsel appearing for the respondent No.2.

2. This is an application u/s 389 of the Code of Criminal Procedure, 1973 praying for suspension of the sentence awarded in the judgment and order dated 21.11.2023 passed by the learned Additional Sessions Judge-cum- Special Judge, POCSO, Kamrup (M) in Sessions Spl. Case No. 27/2022.

3. Mr. Roy Choudhury has submitted that the applicant was convicted u/s 10 of the POCSO Act and he was directed to undergo imprisonment for 5 years for the said offence and he has already spent one year in custody. The learned counsel for the applicant submits that the applicant is 61 years old. Mr. Roy has also pointed out to the medical evidence available in

the record.

4. Mr. S. Das submits that the examination-in-chief could not be demolished by the defence side.

5. Mr. S. Das further submits that the victim is a 8 year old girl.

6. I have considered the submissions made by the learned counsels of both sides in the light of the materials available in the record.

7. This Court is of the opinion that at this stage, the prayer of the petitioner should be accepted.

8. Therefore, the sentence awarded in the judgment and order dated 21.11.2023 passed by the learned Additional Sessions Judge-cum- Special Judge, POCSO, Kamrup (M) in Sessions Spl. Case No. 27/2022 shall remain stayed till disposal of the connected appeal.

9. It is also directed that the applicant, Parash Jain on his appearance before the court below shall be released on bail of Rs.25,000/- with a surety of like amount to the satisfaction of the learned Additional Sessions Judge-cum- Special Judge, POCSO, Kamrup (M), Guwahati.

With the aforesaid direction, the interlocutory application stands disposed of.

JUDGE

Comparing Assistant