

GAHC010293572023



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

Case No. : I.A.(Crl.)/42/2024

ABDUL MAZUMDER
S/O LATE EUSUF ALI, VILL.- HATKHULA, P.O.- SONAPUR, P.S.- SONAPUR,
DIST.- KAMRUP (METRO), ASSAM, PIN- 782402.

VERSUS

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

2:MD. ANOWAR HUSSAIN
(VICTIM'S FATHER)
S/O MONNAF ALI
R/O
VILL.- HATKHULA
P.O.- SONAPUR
P.S.- SONAPUR
DIST.- KAMRUP (METRO)
ASSAM
PIN- 782402

Advocate for the Petitioner : MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 19-03-2024

Heard Mr. B.K. Mahajan, learned counsel for the applicant-appellant and Mr. D.P. Goswami, learned Additional Public Prosecutor for the State/respondent.

2. This is an application under Section 389(3) Cr.P.C. praying for granting bail by suspending sentence pending appeal to the applicant against the judgment and order dated 29.11.2023 passed by the learned Special Judge, POCSO, Kamrup (M), Guwahati in Sessions Case No. 203/2020, whereby the applicant-appellant was convicted under Section 506, IPC read with Section 10 of POCSO Act, 2012 and sentenced to undergo rigorous imprisonment for 1 (one) year and to pay a fine of Rs. 5,000/-, in default of payment of fine, to undergo simple imprisonment for another 2 (two) months for the offence under Section 506, IPC and to undergo rigorous imprisonment for 5 (five) years and to pay a fine of Rs. 10,000/-, in default of payment of fine, to undergo simple imprisonment for another 3 (three) months for the offence under Section 10 of the POCSO Act, 2012.

3. It is submitted by the learned counsel for the applicant-appellant that the applicant-appellant suffered second brain stroke in jail and on 13.03.2024, on the instruction of the Superintendent of Central Jail, Guwahati, he has been shifted to GMCH for his treatment. Thereafter, the Superintendent of Central Jail, Guwahati informed the family members of the applicant-appellant regarding his hospitalization on 13.03.2024 as his health condition has been deteriorated and he was advised to be admitted at GMCH, Guwahati and accordingly, on medical ground the learned counsel for the applicant-appellant is praying that

the applicant-appellant may be released on bail during pendency of the appeal.

4. On the other hand, Mr. Goswami, learned Additional Public Prosecutor submits that considering the health status of the applicant-appellant and after going through the medical documents, bail may be granted during pendency of the appeal without going into the merits of the case.

5. I have considered the submissions made by the learned counsel for the parties.

6. In view of the back ground of the case, this Court is of the view that the prayer of the applicant-appellant may be considered.

7. Accordingly, the applicant-appellant, Abdul Mazumder, shall be released on bail suspending the sentence during appeal in connection with Sessions Case No. 203/2020, under Section 506 IPC read with Section 10, POCSO Act, subject to the following conditions :

(I) The applicant shall furnish a bail bond of Rs.30,000/- with one suitable surety of the like amount to the satisfaction of the learned Special Judge, POCSO, Kamrup (M).

(ii) The learned Special Judge, POCSO, Kamrup (M) will be at liberty to impose any condition(s) while releasing the applicant on bail.

In view of the above, interlocutory application stands disposed of.

JUDGE

Comparing Assistant