

GAHC010295462023



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

Case No. : I.A.(Crl.)/100/2024

MD. TAYAB ALI
S/O LATE BAJHESH ALI MANDAL,
R/O SUWANI GAON UNDER JORHAT POLICE STATION IN THE DISTRICT OF
JORHAT, ASSAM.

VERSUS

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

2:MD. JAHIR ALI
S/O LATE JAMIR ALI

R/O SUONI GAON UNDER JORHAT POLICE STATION IN THE DISTRICT OF
JORHAT
ASSAM

Advocate for the Petitioner : MR. U CHOUDHURY (LEGAL AID COUNSEL)

Advocate for the Respondent : PP, ASSAM

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

ORDER

07-02-2024

(Kalyan Rai Surana, J)

Heard Mr. U. Choudhury, learned Legal Aid Counsel. Also heard Ms. S.H.

Bora, learned Additional Public Prosecutor appearing for the State of Assam.

2. By this application under Section 5 of the Limitation Act, the applicant, who is in jail, has prayed for condoning the delay of 42 days beyond the period of limitation in filing the connected appeal against the judgment and order dated 11.09.2023, passed by the learned Special Judge, Jorhat in Special Case No. 206/2022.

3. Learned Legal Aid Counsel has submitted that some time was consumed in the matter being reported to the Gauhati High Court Legal Services Committee through the Secretary District Legal Services Authority, Jorhat and by the time this connected appeal was filed, there was a delay of 42 days in filing the appeal.

4. However, the learned Additional Public Prosecutor has opposed the prayer for condoning the delay.

5. Having regard to the fact that the connected appeal is being moved by the Gauhati High Court Legal Services Committee through a legal aid counsel and further taking note to the fact that the applicant is in jail and that there was a delay in making communication and providing of the relevant papers to the learned Legal Aid Counsel, the Court is of the considered opinion that issuance of notice on this application to the State can be dispensed with, as the learned Additional Public Prosecutor has already been heard in the matter.

6. In view of the explanation given by the applicant, the Court is inclined to accept the said explanation as good and sufficient cause which has caused delay in filing of the connected appeal.

7. Accordingly, the delay of 42 days in filing of the connected appeal stands condoned. This application stands allowed.

8. The Registry shall register the connected appeal and list the same in

admission column.

JUDGE

JUDGE

Comparing Assistant