

GAHC020003952024



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

**Case No. : I.A.(CrI.)/21/2024**

SHRI NEKHO RHAKHO  
S/O TSUVEYI RHAKHO,  
VILL.THUVOPISU, PO/PS-CHOZUBA, DIST-PHEK, NAGALAND

VERSUS

THE STATE OF NAGALAND AND ANR  
NAGALAND 2:MISS XYZ  
NAGALAN

**Advocate for the Petitioner** : V. THEYO, NANCY LOTHAKHRIEKETHONUO

**Advocate for the Respondent** : ,

Linked Case : Bail Appln./14/2024

NEKHO RHAKHO  
S/O TSUVEYI RHAKHO

VILL-THUVOPISU

PO/PS-CHOZUBA  
DIST-PHEK  
NAGALAND

VERSUS

THE STATE OF NAGALAND AND ANR

NAGALAND

2:MISS XYZ  
NAGALAND

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Advocate for : V. THEYO  
Advocate for : appearing for THE STATE OF NAGALAND AND ANR

Linked Case : CRAPL/2/2024

NEKHO RHAKHO  
S/O TSUVEYI RHAKHO

VILL-THUVOPISU

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VERSUS

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Advocate for : V. THEYO  
Advocate for : appearing for THE STATE OF NAGALAND AND ANR

**BEFORE**  
**HON'BLE MR. JUSTICE MANISH CHOUDHURY**  
**HON'BLE MR. JUSTICE KAKHETO SEMA**

**ORDER**

**25.09.2024**

[Manish Choudhury, J.]

Heard Mr. V. Theyo, learned counsel for the applicant and Mr. K. Angami,  
learned Public Prosecutor for the respondent no. 1 State of Nagaland.

2. On the previous date of listing i.e. on 11.09.2024, this Court requested the learned Public Prosecutor to obtain a report from the Officer In-Charge, Phek Women Police Station Nagaland as to whether the notice upon the opposite party no. 2-informant has been duly served.

3. Mr. Angami, learned Public Prosecutor on the basis of a report dated 18.09.2024 received by him from the Officer In-Charge, Phek Women Police Station Nagaland, has submitted that the notice has been duly served upon the opposite party no. 2-informant. A photo copy of the said report is also placed by Mr. Angami.

4. Despite service of notice upon the opposite party no. 2-informant, there is no representation on behalf of the opposite party no. 2-informant till date.

5. The instant application under Section 5 of the Limitation Act, 1963 is preferred seeking condonation of delay of 143 days in preferring the accompanying criminal appeal against a Judgment and Order dated 09.02.2024 passed by the Court of learned Special Judge, Phek Nagaland in Sessions [Special] Case no. 05 of 2023, which arose out of G.R. Case no. 46 of 2023 and Phek Women Police Station Case no. 01 of 2023. By the Judgment and Order dated 09.02.2024, the learned Special Judge convicted the applicant-appellant who stood the trial as accused, for the offence under Section 4 [2] of Protection of Children from Sexual Offences Act and he has been sentenced to undergo imprisonment for 20 years and to pay a fine of Rs. 1,000/- with default stipulation.

6. We have gone through the statements and averments made in the instant application wherein the applicant-appellant has sought to explain the delay of 143 days.

7. Mr. Angami, learned Public Prosecutor has fairly submitted that no instruction has been received to oppose the instant application, which has been

preferred for condonation of delay in preferring the accompanying criminal appeal.

8. Having considered the reasons shown for the delay, we find that the applicant-appellant has been able to explain the period of delay showing sufficient cause. In any view of the matter, we find that ends of justice will be better subserved if the accompanying appeal is heard on merits, as the applicant-appellant has been sentenced to rigorous imprisonment for 20 years. Accordingly, the instant application is allowed condoning the period of delay of 143 days beyond the period of limitation.

9. The opposite party no. 2-informnant will have participatory right in the accompanying criminal appeal.

10. List the accompanying criminal appeal for admission in due course.

**JUDGE**

**JUDGE**

**Comparing Assistant**