GAHC010044882026

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

Case : I.A.(Crl.)/294/2026

SRI KHEDNA KARMAKAR
S/O- LATE BUDHUWA KARMAKAR

R/O-VILL - BALAIPAM
P.O- RATNAPUR
P.S- JONAI
DIST- DHEMAJI
ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP BY THE PP
ASSAM

2:SMTI. JONALI KARMAKAR
W/O- LATE DIPANKAR KARMAKAR

R/O-VILL - BALAIPAM
P.S- JONAI
DIST- DHEMAJI
ASSAM

Advocate for : RAVI SHANKAR MISHRA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

28.07.2026

1. Heard Mr. J. P. More, learned counsel for the applicant. Also heard Mr. D. P. Goswami learned Additional Public Prosecutor and Ms. T. Parasar, learned Amicus Curiae to represent the respondent No.2.

2. By this application the applicant has prayed for suspension of sentence and for allowing the applicant to go on bail.

3. The applicant has prayed for the aforesaid relief in connection with the judgment and order dated 04.12.2025 passed by the court of Sessions Judge, Dhemaji in Sessions Case No. 16/2017 by which the applicant was convicted under Section 304 Part I IPC and was sentenced to undergo RI for a period of seven years with fine and default stipulation.

4. The learned counsel for the applicant submits that the FIR lodged in the instant case reveals that the husband of the informant went to the place of the uncle with a dao in his hand and that little thereafter, there was a quarrel amongst the uncle and the husband of the informant and that thereafter, the uncle of the deceased attacked the husband of the informant with the said machete and caused injuries to the victim. The informant further stated that her husband was taken to the hospital but he succumbed to the injuries.

5. Learned counsel for the applicant submits that the FIR was registered under Section 302 of the IPC and the charges were also framed under the said Section but the learned trial court on perusal of the facts converted the case under Section 304 Part-I and convicted the applicant and sentenced him as stated above.

6. The learned counsel however submits that the instant case was stated to

have been proved on the basis of chain of circumstances and that he submits that the chain of circumstances were not complete and the conviction and sentence could not have been awarded by the learned trial court. He submits that the machete recovered by the police had no blood stains and the same was not sent for examination by the Forensic Science Laboratory. Further, he submits that the evidence of PW-6 which was relied on by the trial court cannot also be believed in view of the fact that none of the witnesses had stated that they had seen PW-6 at the place of occurrence.

7. He further submits that the informant herself had stated that her husband went to his uncle's house i.e. to the accused's house with a dao in his hand and the quarrel has taken place between them. He further submits that the complainant was not examined by the trial court and she was untraceable and as such the complainant was never examined.

8. On the other hand, Mr. D. P. Goswami, learned Additional Public Prosecutor submits that PW-6 had categorically stated that he saw the accused person holding a dao near the deceased and the deceased was seen lying with injuries on his body. He submit that a chain is complete to the effect that the deceased went to the house of his uncle and a quarrel ensured and the accused was seen near the deceased holding a dao in his hand.

9. Learned counsel appearing for the informant submits that the chain of circumstances in the instant case is complete and she submits that although the circumstances are few in numbers but she stated that in certain cases circumstances are few and case can be established with the same. She reiterates the submission made by the learned Additional Public Prosecutor for the State.

10. I have heard the learned counsel and gone through the records.

11. It is seen from the records that the deceased had gone to his uncle's house with a dao in his hand and that a quarrel ensured and the deceased died and the accused was found standing near the deceased. The case was based on circumstantial evidence and the circumstances considered by the trial court were very few in numbers.

12. It is also a settled position of law that in a case of circumstantial evidence motive plays an important role and the motive as such is missing in the instant case. Further, no scientific evidence is revealed in the instant case.

13. Although, the dao was recovered but the same was found without any blood stain. Further, from the doctors evidence it is seen that the deceased had sustained number of injuries and it was not explained by the doctor as to whether those injuries could have been inflicted by the dao that was seized .

14. In view of the facts and circumstances, this Court deems it fit to enlarge the applicant on bail during pendency of the appeal. As such, the applicant is allowed to go on furnishing of a bail bond of Rs.20,000/- with one local surety to the satisfaction of the learned Sessions Judge, Dhemaji in connection with Sessions Case No. 16/2017.

15. Accordingly, this IA stands disposed of.

JUDGE

Comparing Assistant