GAHC010153562026

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

Case No. : I.A.(Crl.)/743/2026

DEVENDRA KUMAR
SON OF LATE MANGEY RAM RESIDENT OF PURBALIYAN P.S. MANSURPUR
DISTRICT - MUZAFFAR NAGAR
UTTAR PRADESH

VERSUS

THE STATE OF ASSAM AND ANR.
REPRESENTED BY P.P. THE ASSAM.

2:SMT KAMLA
WIFE OF MAHESH KUMAR RESIDENT OF COLABA P.S. MUMBAI
MAHARASTRA PIN

Advocate for : MR N J DAS
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

BEFORE

HON'BLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

28.07.2026

Heard Mr N J Das, learned counsel for the applicant and Ms S H Bora, learned Additional Public Prosecutor for the State of Assam.

2. By this application the applicant has prayed for suspension of the sentence

imposed on the applicant in the Judgment and order dated 15.06.2026, passed by the learned Court of Additional Sessions Judge-cum- Special Judge (POCSO), Kamrup (M), at Guwahati, in Sessions Case No. 1017 of 2019 and for allowing the petitioner to go on bail.

3. The learned counsel for the applicant submits that the learned Trial Court had allowed the applicant to remain on previous bail till he files an appeal before the appellate Court. It is provided under Sub-Section (3) of Section 430 of the BNS, 2023, that when a convict is sentenced to an imprisonment of not more than 3 (three) years, the Trial Court should allow the convicted person to remain on previous bail till he files the appeal before the appellate Court. The exercise has been done in the instant case.

4. The learned counsel for the applicant submits that there is contradiction in the statement of the victim before the Police and before the Trial Court. He submits that the IO had stated that the victim had not stated before the Police that the applicant had put his hands on her thighs and that slowly he moved upto her private parts, whereas the victim had stated the same before the Trial Court. He further submits that although it was claimed that PW-4 was the eye-witness to the incident, but PW-4 had not stated that he had seen the incident while deposing before the Trial Court

5. On the other hand, Ms S H Bora, learned Additional Public Prosecutor for the State, submits that the statement of the victim as far as the root of the case is concerned, is consistent before the authorities and as such, she submits that the petitioner may not be released on bail.

6. On consideration of the submissions made by the learned counsel for both the parties, it is seen that the conviction of the applicant is given under Section

8 of the POCSO and he was sentenced for a period of 3 (three) years and this Court has also noticed the contradictions in the statement of the victim, on a *prima facie* reading of the same. As such, this Court deems it fit to suspend the sentence and allow the petitioner to be released on bail on furnishing bail bond of Rs. 20,000/-, with one local surety to the satisfaction of the learned Additional Sessions Judge-cum-Special Judge, Kamrup (Metro), Guwahati.

7. The Interlocutory Application stands disposed of.

JUDGE

Comparing Assistant