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

Case No. : I.A.(Crl.)/838/2026

MD WASIM AKRAM ALIAS RAJ ALIAS WASIM KHAN
SON OF LATE NURJAHAN ALI VILLAGE-TARABARI PART P.O.-HABIBARANGABARI P.S.-MIKIR BHETA DISTRICT-MORIGAON ASSAM PIN CODE-782103

VERSUS

THE STATE OF ASSAM AND ANR
REP BY THE PP, ASSAM

2:MUSSTT PARBIN SULTANA
WIFE OF LATE MUSTAK AHMEDWARD NO. 3 MILANPUR PACHATIAP.S.-MORIGAONDISTRICT-MORIGAON ASSAMPIN CODE-78210

Advocate for the Petitioner : MR. P K SARMA, S HAZARIKA,MS R SAHIN,MS. B BHUYAN

Advocate for the Respondent : PP, ASSAM, MS. D PATHAK,MR. R DE

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

Date : 17.08.2026

(M. Zothankhuma, J)

1. Heard Mr. P. K. Sarma, learned counsel for the applicant/appellant and Mr. R. De, learned counsel for the respondent No. 2 as well as Mr. R. R. Kaushik, learned Addl. PP, Assam.

2. This is an application under Section 430 BNSS for suspending the sentence to

be undergone by the applicant, on being convicted under Section 6 of the POCSO Act, vide the impugned judgment dated 05.05.2025, passed by the learned Addl. Sessions Judge -cum- Special Judge (POCSO), Morigaon, in POCSO Case No. 127/2023.

3. The applicant's counsel submits that the victim and the applicant were in a relationship and he was always given to understand that the victim was above 18 years of age. This is further corroborated by the evidence of the medical doctor, who has taken the age of the victim girl to be between 20 to 25 years, on the basis of the radiological examination conducted upon the victim girl on 01.06.2022. The learned counsel for the applicant also submits that if not for the present case, the applicant and the victim would have married a long time back. He submits that marriage considerations and proposals have been going back and forth between the two families and a decision has been taken for a marriage ceremony to be undertaken between the two persons. The applicant’s counsel thus submits that the applicant should be released on bail.

4. Mr. R. De, learned counsel for the respondent No. 2 does not deny the submission made by the applicant's counsel.

5. Mr. R. R. Kaushik, the learned Addl. PP, Assam submits that the age of the victim at the time of the affair between the applicant and the victim was approximately 17 years 6 months. Thus, even though the victim may have given her consent to the affair, the victim, being a minor, as per the POCSO Act, the consent of a minor girl could not have any effect in violation of the law.

6. We have considered the case and found that the matter pertains to the year 2022. It appears from the submissions made by the learned counsels for the parties and also from the records that the applicant and the victim have been having an affair. The doctor's evidence is also to the effect that the victim was above 18 years when the parties were having an affair. As the parties have decided to marry, we are of the

view that the applicant should be released on bail at this stage.

7. Accordingly, the applicant is released on bail, on furnishing a bail bond of Rs.20,000/- with one surety of like amount, to the satisfaction of the learned Trial Court. Consequently, the impugned sentence to be undergone by the applicant, pursuant to the impugned judgment dated 05.05.2025, passed by the learned Addl. Sessions Judge -cum- Special Judge (POCSO), Morigaon in POCSO Case No. 127/2023 is hereby suspended till final disposal of the case.

8. IA is accordingly allowed.

JUDGE **JUDGE**

Comparing Assistant