GAHC010240632024

undefined

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

Case No. : I.A.(Crl.)/1110/2024

RAJIB MEDOK
S/O. LATE DEBANANDA MEDOK
R/O. AYENGIA CHARIALI
P/S. SILAPATHAR
DIST. DHEMAJI
ASSAM.

VERSUS

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

2:SWAPAN DAS
S/O. NIRANJAN DAS
R/O. AYENGIA CHARIALI
P/S. SILAPATHAR
DIST. DHEMAJI
ASSAM.

Advocate for : MR. S BISWAS
LEGAL AID OUNSEL
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

in CRL.A(J)/131/2024

RAJIB MEDOK
S/O. LATE DEBANANDA MEDOK, R/O. AYENGIA CHARIALI, P/S. SILAPATHAR, DIST. DHEMAJI, ASSAM.

VERSUS

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

2:SWAPAN DAS
S/O. NIRANJAN DAS
R/O. AYENGIA CHARIALI
P/S. SILAPATHAR
DIST. DHEMAJI
ASSAM

Advocate for the Petitioner : X, MR. S BISWAS, LEGAL AID COUNSEL

Advocate for the Respondent : PP, ASSAM,

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

ORDER

Date : 17/08/2026
(Michael Zothankhuma, J)

1. Heard Mr. S. Biswas, learned Legal Aid Counsel for the appellant and Mr. R.R. Kaushik, learned APP, Assam, appearing for the State.

2. This application under Section 430 BNSS is for suspending the sentence to be undergone by the applicant/appellant pursuant to the judgment dated 15-10-2024, passed by the learned Special Judge (POCSO) in Special(PCOSO) Case No. 39/2021, arising out of Silapathar PS Case No. 374/2021.

3. The applicant's counsel submits that the Doctor's evidence shows that when the victim had been taken for medical examination before the Doctor on 01/08/2021 in relation to the alleged penetrative sexual assault by the applicant on the same date, the victim was seen to be pregnant by 4 (four) weeks. As

such, there was no question of the applicant being the person who had raped the victim.

4. On the other hand, the learned APP submits that the rape of the victim by the applicant does not mean that the victim could not have had some sexual assault made on her by some other person, other than the applicant.

5. We have considered the submission made by the learned counsels for the parties.

6. As per the FIR submitted by the father of the victim, the victim was raped at around 1.00 pm on 01/08/2021. The victim was also taken for medical examination on the same day, wherein it was found that she was four weeks' pregnant.

7. Without going into the issue of whether there was some other person who had sexual intercourse with the victim, besides the applicant herein, we find that the father of the victim was also an eyewitness to the applicant having sexual intercourse with the victim, who was allegedly 12 years of age. On account of the above, we do not find any reason to allow the present application at this stage. The application is rejected.

8. Any observations and findings made herein will not be considered to be the final observations or findings at the time of hearing the appeal.

9. IA is accordingly disposed of.

JUDGE **JUDGE**

Comparing Assistant