GAHC020005672026

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

Case No. : I.A.(Crl.)/31/2026

SHRI KHWUSHOPRA VESWUH
S/O LATE VESWU VESWUH, V/O RUZAZHO VILLAGE, P/ADD CHOTO BOSTI, KOHIMA, NAGALAND

VERSUS

THE STATE OF NAGALAND AND ANR
P.P. NAGALAND 2:SHRI ASANE (FIR INFORMANT)
HUSBAND OF SMTI. ADOU SWUKO
PRESENT ADD. KEZIEKE
KOHIMA
NAGALAN

Advocate for the Petitioner : KONLI BUCHEM,

Advocate for the Respondent : P.P, NAGALAND,

Linked Case : CRL.A(J)/11/2026

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S/O LATE VESWU VESWUH
V/O RUZAZHO VILLAGE
P/ADD. CHOTO BOSTI
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Advocate for : SENTIYANGER
Advocate for : P.P
NAGALAND appearing for THE STATE OF NAGALAND AND ANR

Linked Case : Bail Appln./21/2026

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S/O LATE VESWU VESWUH
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KOHIMA
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Advocate for : SENTIYANGER
Advocate for : P.P
NAGALAND appearing for STATE OF NAGALAND AND ANR

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

Date : 10.09.2026
[M. Choudhury, J.]

Heard Ms. Konli Buchem, learned counsel for the applicant-accused and Ms. Livika, learned Public Prosecutor for the respondent State of Nagaland.

2. The instant interlocutory application under Section 5 of the Limitation Act, 1963 is preferred seeking condonation of delay of 2836 days, which period of delay had occurred in filing the accompanying criminal appeal under Section 415 r/w Section 424, Bharatiya Nagarik Suraksha Sanhita [BNSS], 2023 [corresponding to Section 374 r/w Section 383, Code of Criminal Procedure, 1973] against a Judgment and Order dated 16.08.2018 passed by the Court of learned Special Judge, POCSO, Kohima ['the Special Court', for short] in G.R. Case no. 120/2016, which arose out of Kohima North Police Station Case no. 45/2016.

3. The alleged incident of crime is stated to have occurred in September, 2015. The First Information Report [FIR] was lodged by the mother of the victim, who was stated to be a minor. It was alleged that as a result of acts of penetrative sexual assault on the victim by the accused, who was her grandfather, the victim became pregnant. The case was registered as Kohima North Police Station Case no. 45/2016 for the offences under Section 376[2][i] and Section 506 of the Indian Penal Code [IPC] r/w Section 6, Protection of Children from Sexual Offences [POCSO] Act, 2012. After investigation, the Investigating Officer [I.O.] submitted a Charge-Sheet against the accused. On appearance of the applicant as the sole accused, charges under Sections 376[2][i] and Section 506, IPC r/w Section 6, POCSO Act were framed against the accused on 19.07.2017. After trial, the Special Court delivered its Judgment and Order of conviction and sentence on 16.08.2018. By the impugned Judgment

and Order, the applicant-accused was found guilty of the offences under Section 376[2][i], IPC and Section 6, POCSO Act. He was also found guilty of the offence under Section 506, IPC. The Special Court observed that the sentences under Section 376[2][i], IPC and under Section 6, POCSO Act were to run concurrently. For the offence under Section 376[2][i], IPC, the applicant-accused has been sentenced to undergo rigorous imprisonment of 10 [ten] years. For the offence under Section 6, POCSO Act, the applicant-accused has been sentenced to undergo rigorous imprisonment of 14 [fourteen] years. In addition, the applicant-accused has been sentenced to undergo simple imprisonment of 2 [two] years for the offence under Section 506, IPC. This period of imprisonment of two years under Section 506, IPC was ordered to run consecutively. It was ordered that the period already served by the applicant-accused should be set-off. Thus, the applicant-accused has to spend a period of 16 [sixteen] years to complete the sentence periods for all the offences cumulatively.

4. Though the applicant-accused was convicted by the Judgment and Order of conviction and sentence as far back as on 16.08.2018, the applicant-accused did not prefer any appeal in the subsequent period. It is averred that until the applicant-appellant was informed by the paralegal volunteers from the Nagaland State Legal Services Authority ['the NSLSA', for short] about his rights to approach the appellate court by way of an appeal, the applicant-appellant was unaware of his legal rights. It is stated that on being so informed, the applicant-appellant had approached the NSLSA for providing free legal assistance. It was after approach to the NSLSA, free legal assistance was provided to the applicant-appellant on 18.12.2025 by assigning a Legal Aid Counsel. After all the materials were supplied to the Legal Aid Counsel, the accompanying appeal came to be filed.

5. It is stated that in the above backdrop, the delay of 2836 days has occurred in filing the accompanying criminal appeal.

6. It is pertinent to mention that in Special Leave to Appeal [Crl.] no.

7128/2026 [Arjun Jani @ Tuntun vs. State of Orissa], the appellant approached the High Court by filing an appeal after a period of delay of 3157 days against a Judgment and Order of conviction and sentence passed by the Trial Court. The appellant was held guilty of the offences under Section 302 and Section 201 of the IPC and he was sentenced to undergo life imprisonment. The High Court dismissed the criminal appeal on the ground of being time barred as there was a delay of nine years. In the above backdrop, the Hon'ble Supreme Court has observed that the High Court, while declining to condone the delay, ought to have considered the fact that the appellant was already undergoing sentence for the past twelve years. It was observed that the High Court ought to have also considered that it was an appeal through jail and the said fact itself would be sufficient for the High Court to take a practical view or rather a sympathetic view of the matter and at least ought to have condoned the delay so as to give one opportunity to the appellant to argue his criminal appeal on merits. Having observed that the appellant therein had undergone almost twenty-two years of sentence, the period of delay of 3157 days was condoned.

7. In the case in hand, it appears that the applicant-accused was not made aware of his statutory right to file an appeal against impugned Judgment and Order of conviction and sentence passed on 16.08.2018. It was only in the year 2025, he was made aware of his statutory right and that he could obtain free legal aid to prefer an appeal to assail the findings recorded against him in the Judgment and Order dated 16.08.2018.

8. From the Judgment and Order dated 16.08.2018, it is evident that the applicant-accused is in custody since 15.06.2016. Meaning thereby, the applicant-accused is in incarceration for more than ten years, as on date and has spent more than half of total period of sentences together.

9. In view of the above, we find that the applicant-appellant at least deserves an opportunity to contest the findings recorded against him in the Judgment and Order dated 16.08.2018 on merits. Therefore, we deem it fit and proper, in the interest of justice, to condone the delay of 2836 days which had

occurred in filing the accompanying criminal appeal.

10. The informant/victim is to be afforded the opportunity to appear and of hearing in the accompanying criminal appeal after ensuring service of notice. Therefore, this Court does not find it necessary to hear the informant/victim at the time of consideration of this application either to condone the delay or not to condone the delay.

11. Consequently, the instant application is allowed.

12. The Registry to list the accompanying appeal in the next week.

Sd/- Sd/-

JUDGE **JUDGE**

Comparing Assistant