GAHC040010852026

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

Case No. : IA(Crl)/71/2026

Biram Dada @ Beta Dada and Anr
Son of Late Lapi Dada, resident of kapu Dada village, PO Pipu, PS Chayang Tajo, East Kameng District, Arunachal Pradesh 2: Nidar Dada
Age:
Occupation :
Son of Late Lapi Dada
resident of Kapu Dada Village
PO Pipu
PS Chayang Tajo
East Kameng District
Arunachal Pradesh

VERSUS

The State of AP and Anr
represented by the PP of AP 2:Mis XYZ
Age: 0
Occupation :
Daughte rof Shri Doluk Lamgu
resident of Tarusso Colony Model Village
PS Seppa
East Kameng District
Arunachal Pradesh

Advocate for the Petitioner : Kago Taja,

Advocate for the Respondent : P P of AP,

Linked Case : Crl.A./25/2026

Biram Dada @ Beta Dada and Anr
Age: 28

Occupation :
Address:Son of Late Lapi Dada
resident of kapu Dada Village
PO Pipu
PS Chayang Tajo
East Kameng District
Arunachal Pradesh
2: Nidar Dada
Age: 30
Occupation :
Address:Son of Late Lapi Dada
resident of Kapu Dada Village
PO Pipu
PS Chayang Tajo
East Kameng District
Arunachal Pradesh.
VERSUS

The State of AP and Anr
Age: 0
Occupation :
Address:represented by the PP of AP
2:Mis XYZ
Age: 0
Occupation :
Address:Daughter of Shri Doluk Lamgu
resident of Tarusso Colony Model Village
PS Seppa
East Kameng District
Arunachal Pradesh.

Advocate for : Kago Taja
Advocate for : P P of AP appearing for The State of AP and Anr: Advocate , appearing for 2, respectively.

BEFORE
HONOURABLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

Date : 09-11-2026

The instant application under section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023 2023 has been preferred praying for suspension of

the impugned judgment dated 15.05.2026 and order of sentence dated 22.05.2026 passed in POCSO (SPA) Case No.04/2025 arising out of Seppa Women P.S. Case No. Case No.09/2021 till disposal of the criminal appeal and for granting bail to the convict who has been convicted under section 376(2)(f) IPC and sentenced to undergo rigorous imprisonment for a term of 10 years and to pay a fine of Rs.5,000/- with default clause.

2. Heard learned counsel for the applicant Mr. Kago Taja. Also heard the learned Addl.P.P. Mr. T. Ete for the State respondent and Ms. N.Anju, learned Legal Aid counsel for the respondent No.2.

3. The case of the petitioner herein is that the applicant was convicted under section 376(2)(f) Indian Penal Code, 1860 in connection with the aforementioned case. The convict is undergoing sentence at District Jail, East Kameng Seppa Arunachal Pradesh. It is the case of the applicant that there is no material evidence against the accused/convict either circumstantial or direct and there are several inconsistencies in the prosecution evidence. It is also stated that the convict is a law abiding citizen and his conduct can be seen from the fact that he had cooperated with the Court even after conviction when the judgment and order was passed on 15.05.2026. Subsequently, the matter was fixed for sentence hearing after a week on 22.05.2026 and during the pendency of the sentence hearing he was not immediately taken into custody. However, the convict has without fail attended the Court on the date of hearing of sentence although he was fully aware that he would be taken to custody. This act of the convict has proved that he has been cooperating with the trial and that he will not flee even if granted bail.

4. It is further submitted that the convict has no criminal antecedent

and this is the only case where he has been convicted. It is the further submission of the learned counsel for the applicant that the convict is the sole bread earner of the family after the death of both his parents and he has a younger sister who is physically challenged and there is no one to look after her. It is also stated that the motive of criminal jurisprudence is reformative and not punitive and he will fully cooperate with any order of this Court during the pendency of the appeal. The learned counsel therefore prays that the impugned judgment and order dated 15.05.2026 and order of sentence dated 22.05.2026 passed in POCSO (SPA) Case No.04/2025 arising out of Seppa Women P.S. Case No. Case No.09/2021 may be suspended during the pendency of the connected criminal appeal and the convict may be granted bail on any condition to be imposed by this Court.

5. The learned counsel for the applicant has relied on the case of Bhagwam Rama Shinde Gosai and Ors vs State of Gujarat reported in 1999 (4) SCC 421, wherein the Supreme Court held that when a convicted person is sentenced to a fixed period of sentence and when he files appeal under any statutory right, suspension of sentence can be considered by the appellate court liberally unless there are exceptional circumstances. The learned counsel for the applicant also relied on the case of Angana and Anr vs State of Rajasthan reported in 2009 (3)SCC 767 wherein it was held by the Supreme Court that when an appeal is preferred against conviction in the High Court, the Court has ample power and discretion to suspend the sentence, but that discretion has to be exercised judiciously depending on the facts and circumstances of each case.

6. The learned Addl.P.P Mr. T. Ete appearing for the State respondent has opposed the prayer for suspension on bail on the ground that the

convict has been incarcerated only for a period of 8 months till date counting the period of custody during trial. Moreover, this is a case where the applicant has been convicted under section 376(2)(f) IPC and being a relative of the victim, it would not be in the interest of the victim if the applicant is released on bail at this stage. The learned Addl.P.P also submitted that the Trial Court Records have already been received and the Court has directed for preparation of the paper book and therefore, there will be no delay in hearing of the criminal appeal. He stated that it has been reiterated time and again by the Hon'ble Supreme Court that suspension of sentence and grant of bail can be considered by the Court only when the Court is not in a position to hear the appeal within a reasonable period of time. The learned Addl.P.P. also submitted that this is a case where the applicant has been charged under section 6 of the POCSO Act but he was not convicted under the said section of the POCSO Act only due to technicalities which would be again considered by this Court in the appeal. Under the said circumstances, the learned Addl.P.P. prays that the instant application may be dismissed being devoid of merit.

7. The learned Legal Aid counsel appearing for the respondent No.2 has also adopted the submissions made by the learned Addl.P.P. and has additionally stated that even during the trial, the evidence has revealed that the accused person had threatened the victim and therefore, if the sentence is suspended and bail is granted to the convict at this stage there is every likelihood that the same conduct may be repeated and serious mental trauma will be caused to the victim as the convict is closely related to her.

8. This Court has duly considered the submissions made by the learned counsel for the parties and has perused the pleadings.

9. In a case under POCSO Act, the Court has to always treat the offence against a minor with extreme caution and strict statutory limits have to be considered while determining the bail or suspension of a sentence. It is settled law that suspension is the exception and not the rule. In the case of Angana and Anr (supra), the Supreme Court has in fact reiterated the principle that as long as Court is in a position to hear the appeal within a reasonable time, bail should not be granted.

10. In the instant case, this Court has observed that the Trial Court Records have already been received and direction has been given for preparation of paper book. Moreover, a relevant consideration herein is that the convict has been convicted under section 376(2)(f) of the IPC and this Court is in agreement with the submissions of the respondents that the convict being a relative of the victim, it would not be in the interest of justice to release him on bail at this stage. Moreover, another relevant consideration is that the convict has been in custody for only 8 months as on date counting the period spent in custody during the trial.

11. In view of the above facts and circumstances, this Court is not inclined to grant bail or suspend the sentence at this stage. Accordingly, the application stands dismissed.

JUDGE

Comparing Assistant