GAHC010077222025

2026:GAU-AS:16603-DB

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

Case No. : I.A.(Crl.)/339/2025

WILMANSON BALMUCHU @ WILLIAMSON BHURMUJ @ WOLMAN @ WILMENSON
S/O LATE NUWASH BHURMOJ, R/O DHEKIJULI BAGAN, P.S. DHEKIAJULI, DIST. SONITPUR, ASSAM.

VERSUS

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

2:RUKMINI MUNDA

D/O SANIKA MUNDA
R/O DHEKIAJULI
CHIRAJULI TEA ESTATE
P.S. DHEKIAJULI
DIST. SONITPUR
ASSAM
PIN 78411

Advocate for the Petitioner : MR. D CHOUDHURY, MR T CHAKRABORTY,MR J DAS,MR. R K SARMA

Advocate for the Respondent : PP, ASSAM,

Linked Case : Crl.A./119/2025

WILMANSON BALMUCHU @ WILLIAMSON BHURMUJ @ WOLMAN @

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Advocate for : MR. D CHOUDHURY
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MR. JUSTICE SANJEEV KUMAR SHARMA

ORDER

Date : 12-11-2026
(M. Zothankhuma, J)

1. Heard Mr. D. Choudhury, learned counsel for the applicant/appellant. Also heard Ms. B. Bhuyan, learned Additional P.P for the State.

2. This is an application under Section 430 of the BNSS, for suspension of the sentence being undergone by the applicant/appellant, on his conviction

under Section 376 IPC by the learned Additional Sessions Judge (FTC), Sonitpur, Tezpur in Sessions Case No. 90/2020 vide the impugned Judgment dated 14/02/2025, whereby he was sentenced to undergo rigorous imprisonment for 12 years with a fine of Rs.30,000/-, in default, to undergo simple imprisonment for 1 year.

3. The applicant's counsel has taken us through the evidence of the victim (PW-2) and the younger sister of the victim (PW-4). He submits that the evidence given by the victim implies that there was a relationship between the victim and the applicant, and that the case had been lodged only on account of a quarrel that had ensued between the victim's brother and the applicant-appellant in a picnic. He accordingly prays that the applicant-appellant should be granted bail.

4. On the other hand, the learned APP submits that there was no reason for the victim to have made a false allegation against the applicant-appellant. Besides, the Doctor's evidence has proven that the hymen of the victim was absent, which corroborated the fact that the victim had been subjected to sexual intercourse. She accordingly submits that bail should not be granted to the applicant-appellant.

5. We have heard the learned counsels for the parties.

6. The evidence of PW-2 (victim) is to the effect that the applicant-appellant had come into her house at around 8:00 p.m, while her mother was at home. The applicant had gagged her mouth and dragged her into the tea garden, where he raped her. Thereafter, at about 3:00 a.m, the applicant-

appellant had brought her back to her house and left her there. In her cross-examination, the 31-year-old victim stated that when she returned in the morning, her brother confronted her and she was told by her brother to mention the name of the applicant-appellant in the FIR. In her cross-examination, the victim further stated that when she gave her statement before the police and the Magistrate, she did not say that the applicant-appellant had raped her. The victim only stated that the applicant-appellant did bad things with her.

7. The evidence of PW-4 is to the effect that her younger sister went missing around 8:30 p.m, for which a search ensued for her inside the tea garden. The victim, however, came home herself the next morning at around 3:00 a.m. On asking the victim as to what had happened, the victim had stated that the applicant-appellant had taken her inside the tea bushes and raped her. In her cross-examination, PW-4 stated that she was informed by her brother about the return of her sister, and the victim had informed her that she stayed inside the garden that night.

8. On considering all the above facts, we find that while the evidence against the applicant-appellant is that he had dragged the victim inside the tea garden from her house, he had also brought the victim back to her house at around 3:00 a.m. On further consideration of the fact that the victim in her cross-examination had stated that she did not tell the police or the Magistrate that the applicant had raped her, we are inclined to grant bail to the applicant-appellant at this stage.

9. Consequently, the sentence being undergone by the applicant-appellant pursuant to the impugned Judgment dated 14/02/2025 passed in Sessions Case

No. 90/2020 is hereby suspended. The applicant-appellant is to be released on bail, on furnishing a bail bond of Rs.30,000/- with one surety of like amount, to the satisfaction of the learned Trial Court.

10. The I.A. is accordingly disposed of. However, any observation or finding made in this order shall not be construed to be the final observation/finding of this Court, at the time of final hearing of the appeal.

JUDGE **JUDGE**

Comparing Assistant