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

**Case No. :** I.A.(Crl.)/811/2026

JANARDAN DEKA
S/O KALI KANTA DEKA
R/O SAJEL P.O. DAGAON
P.S. BAIHATA CHARIALI
DIST. KAMRUP ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR.
REPRESENTED BY PP
ASSAM.
2:SMTI MRIDUSHMITA DEKA
D/O MUKUNDA DEKA
R/O SAJEL
P.O. DAGAON
P.S. BAIHATA CHARALI
DIST. KAMRUP
ASSAM.

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Advocate for : MS H DEKA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

**BEFORE**
**HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**
**HONOURABLE MR. JUSTICE NCHUMBEMO MOZHUI**

**ORDER**

**25.11.2026**

(M. Zothankhuma, J)

1. Heard Mr. S. Borthakur, learned Senior Counsel for the applicant/appellant.

Also heard Mr. R.R. Kaushik, learned APP for the State and Ms. R.D. Mazumdar, learned Amicus Curiae for the respondent no.2.

2. This application under Section 430 of BNSS is for suspending the sentence being undergone by the applicant, pursuant to the impugned judgment dated 23.07.2026 passed by the Additional Sessions Judge (FTC) Rangia, Kamrup, in Sessions Case No.22/2022, by which the applicant has been convicted under Section 376(2)(n), while being acquitted of the charge under Section 366 IPC.

3. The case of the applicant is that there was a consensual sexual relation between the parties and they lived together for a month or so, prior to filing of the FIR by the family of the victim. The further case of the applicant is that the evidence would show that there was apparently a promise to marry made by the applicant to the victim, which however did not fructify. However, the fact remained that the initial sexual encounter between the parties was consensual in nature, as the learned Trial Court had acquitted the appellant from the charge of kidnapping the victim.

4. The counsels for the respondents, on the other hand, submit that when the victim has categorically testified that she had been raped, there was no ground for taking any other view by this Court.

5. We have considered the submissions made by the counsels for the parties.

6. We have also noticed the evidence of PW-2, who is the cousin brother of the victim, who had stated that the parties including the applicant and the victim had met with the victim’s family at the police station. However, the family of the victim did not want to take back the victim from the Baihata Chariali, due to which the applicant and the victim had gone back to the applicant's house and stayed there for another month or so.

7. We have also noticed the testimony of the victim (PW-1) during cross examination, wherein at paragraph 29, it has been recorded as follows :

> "During my stay with the accused, I asked the accused Janardan Deka to perform register marriage with me and then he beat me causing bleeding from my nose."

8. On considering the fact that the applicant and the victim had stayed together for around a month and the applicant being acquitted of the charge of kidnapping, we are of the view that a *prima facie* case has been made out by the applicant for grant of bail. Accordingly, the applicant is granted bail, on furnishing a bail bond of Rs.30,000/- with one surety of like amount, to the satisfaction of the learned Trial Court. Consequently, the sentence imposed upon the applicant, pursuant to the judgment dated 23.07.2026 passed by the Additional Sessions Judge (FTC) Rangia, Kamrup, in Sessions Case No.22/2022 is hereby suspended, till final disposal of the appeal.

9. Any observations or findings made by us in this order shall not be construed to be the final observations or findings at the time of final hearing of the appeal.

10. The application is accordingly allowed and disposed of.

**JUDGE** **JUDGE**

**Comparing Assistant**