GAHC010191762025

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

Case No. : I.A.(Crl.)/1298/2025

NAYAN TELENGA
S/O
BIKUL TELENGA

VILLAGE BUBRIGHAT TEA ESTATE

P.S. PATHARKANDI

P.O. BUBRIGHAT

DISTRICT- SRIBHUMI
ASSAM

LODGED IN DISTRICT JAIL
SRIBHUMI

VERSUS

THE STATE OF ASSAM
REP BY PP ASSAM

2:MS BINJI TELENGA
W/O
LATE LAKHINDER TELENGA
VILLAGE BUBRIGHAT TEA ESTATE
P.S. PATHARKANDI

P.O. BUBRIGHAT

DISTRICT -SRIBHUMI
ASSAM

PIN 788724

Advocate for : AMARENDRA GOGOI
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJEEV KUMAR SHARMA

ORDER

30.01.2026

1. Heard Mr. A. Gogoi, learned legal aid counsel representing the applicant. Also heard Mr. D.P Goswami, learned Additional Public Prosecutor for the State of Assam.

2. This I.A. has been preferred seeking suspension of the sentence imposed by the learned Trial Court vide impugned Judgment and Order dated 21.11.2023 passed by the learned Sessions Judge, Karmganj in Sessions Case No. 138/2015 (arising out of Patharkandi P.S Case No.357/2014) convicting and sentencing the applicant, namely, Sri Nayan Telenga, under Section 304 Part II of IPC to undergo Rigorous Imprisonment for 7 (Seven) years with fine of Rs. 5,000/- in default to undergo SI for 4 months for committing the offence under Section 304 Part II of IPC.

3. Mr. Mr. A. Gogoi, learned counsel for the applicant submits

that there are glaring errors of law as well as on facts committed by the learned Trial Court while convicting and sentencing the applicant as aforesaid.

4. On the other hand, the learned Addl. Public Prosecutor, Mr. D.P Goswami has submitted that the prosecution has been able to prove the guilt of the accused beyond all reasonable doubt.

5. The learned counsel for the applicant has relied upon the decision of the Hon'ble Supreme Court in ***Kiran Kumar Vs. State of M.P.,*** reported in ***(2001) 9 SCC 211***, wherein it has been held that the normal rule is that when the appeal of a person convicted and sentenced is pending, the sentence passed on him should be suspended unless any exceptional reason existing therein requires the denial of the same.

6. Reference was made to ***Bhagwan Rama Shinde Gosai Vs. State of Gujarat,*** reported in ***(1999) 4 SCC 421***, wherein the Hon'ble Supreme Court held that when a person is sentenced to a short-term imprisonment, the normal rule is that pending disposal of the appeal, the sentence should be suspended and rejection is only by way of exception.

7. In ***Supreme Court Legal Aid Committee representing Undertrial Prisoners Vs. Union of India &Ors,*** reported in ***(1994) 6 SCC 731***, it was held as follows:

> "*15. We, therefore, direct as under:*
>
> *(i) Where the undertrial is accused of an*

offence(s) under the Act prescribing a punishment of imprisonment of five years or less and fine, such an undertrial shall be released on bail if he has been in jail for a period which is not less than half the punishment provided for the offence with which he is charged and where he is charged with more than one offence, the offence providing the highest punishment. If the offence with which he is charged prescribes the maximum fine, the bail amount shall be 50% of the said amount with two sureties for like amount. If the maximum fine is not prescribed bail shall be to the satisfaction of the Special Judge concerned with two sureties for like amount.

(ii) ii) Where the undertrial accused is charged with an offence(s) under the Act providing for punishment exceeding five years and fine, such an undertrial shall be released on bail on the term set out in (i) above provided that his bail amount shall in no case be less than Rs 50,000 with two sureties for like amount."

8. In *Narcotic Control Bureau Vs. Lakhwinder Singh, 2025 INSC 190*, the Hon'ble Supreme Court held that the above Judgment does not take away the power of the Court to grant regular bail even if the period undergone by a prisoner is less than what is provided in the said judgment. It was further held that in the case of fixed-term sentences, if the courts start adopting a rigid approach, in a large number of cases, till the appeal reaches the stage of the final hearing, the accused would undergo the entire sentence. This will be

a violation of the rights of the accused under Article 21 of the Constitution. Moreover, it will defeat the right of appeal.

9. In the instant case, I have perused the material on record. The applicant has been in jail since his conviction vide Judgment and Order dated 21.11.2023 and the sentence is for a fixed period of 7 (Seven) years.

10. Keeping in view the same and considered in the light of the decision of the Hon'ble Supreme Court in *Kiran Kumar (Supra)*, I do not find any exceptional reason requiring denial of suspension of sentence, even though the applicants have not spent an unduly long period behind bars. Hence, I am of the considered opinion that this is a fit case where the execution of the remaining part of the sentence imposed by the impugned Judgment may be suspended. It is accordingly so ordered.

11. Further, during the pendency of the connected criminal appeal, the applicant is allowed to go on bail on furnishing a bail bond of Rs. 50,000/- with one surety of like amount subject to the satisfaction of the learned Sessions Judge, Karmganj, with a condition that, in the event of dismissal of the connected Crl.A(J)/190/2025, the applicant shall surrender before the Trial Court to serve out the remaining part of his sentence imposed by the impugned judgment or as may be directed by the Appellate Court.

12. The Interlocutory Application is accordingly disposed of.

JUDGE

Comparing Assistant