GAHC010221852026

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

Case No. : Crl.Rev.P./519/2026

RASHIDUL KHAN ALIAS ROSHIDUL KHAN ALIAS ROSIDUL KHAN
S/O- HABEJ KHAN R/O VILL GAREMARI BANIYARA PARA P.O.- GAREMARI, P.S.- BARPETA, DISTRICT BARPETA, ASSAM PIN-781314

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM.

2:ADARJAN NESSA
W/O- JAHIDUL ISLAM R/O VILL SILOCHI PATHAR P.O. PS.- BAGHBAR
DISTRICT BARPETA
ASSAM PIN-781308

Advocate for the Petitioner : MR. A M KHAN, MR T T MONI

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

Date :07.10.2026

Heard Mr. AM Khan, learned Counsel for the petitioner and Mr. DP Goswami, learned Additional Public Prosecutor for the State.

2. By this application filed under Section 438/442 of BNS, 2023 read with Section 528 of the BNSS, of the said Code, the petitioner has prayed for setting aside and quashing of the impugned order dated 18.08.2026 passed in Special POCSO Case No. 04/2026 by the Additional Sessions Judge cum Special Judge, Barpeta, Assam.

3. It is the case of the petitioner that an application was filed before the Court of Special Judge POCSO, Barpeta by the petitioner where in it was stated that in view of the school certificate and the birth certificate, the petitioner be declared as juvenile. In pursuant to the said application, the school Head Master of the School from which the school certificate was issued was examined and summons were issued to the Registrar of Birth and Death Authority, Meghalaya for verification of the relevant birth record in connection with the birth certificate but despite issuance of summons, the same could not be served to the concerned authority.

4. The petitioner thereafter filed another application being petition no. 1176/2026 on 10.08.2026 stating inter alia by referring to the judgments of the Hon'ble Supreme Court that the age determination should be done according to Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015. In the said petition, it was stated further that the school Head Master was examined and there was no allegation that the school record was fabricated or

manipulated. It was also stated that since the petition for claiming juvenility by the petitioner was pending since 28.05.2026 and many dates have gone by the said application be considered without any delay.

5. The learned Counsel however submits that pursuant to the said application, the Counsel appearing for the petitioner beforehand had made a submission before the concerned Court that the petition submitted vide petition no. 1176/2026 is not pressed by him and as such by order dated 18.08.2026, the learned Court i.e. In-Charge Additional Sessions Judge cum Special Judge POCSO, Barpeta had closed the matter as not pressed. However, the learned Counsel for the petitioner submits that the petitioner had engaged a new set of counsels and that new a set of counsels had not appeared on 18.08.2026 and the old set of Counsels had orally submitted that they do not want to press application and the application was closed.

6. The learned Counsel for the petitioner submits that the application was closed inadvertently and without knowing the facts of the case and as such, the said order be recalled and the learned Court may hear it afresh.

7. The learned Additional Public Prosecutor on the other hand submits that since the Juvenile Justice Act is a beneficial legislation, the application made by the petitioner claiming juvenility should be considered in its true prospective.

8. Upon consideration of the submissions made by the learned Counsels for both the parties, more so in view of the fact that the School Headmaster was already examined and the school certificate was there on record along with the birth certificate placed by the petitioner, the Court of Additional Sessions Judge cum Special Judge POCSO, Barpeta is directed to hear the matter and decide on the aspect of juvenility as per the law. Further, it is the mandate of law that the

issue of juvenility can be raised at any stage. Accordingly, on the ground shown by the learned Counsel for the petitioner, the order dated 18.08.2026 is set aside and quashed with the further direction that the learned Court of Additional Sessions Judge cum Special Judge POCSO, Barpeta would hear the matter afresh on the application filed by the petitioner if any claiming juvenility as per the Act.

9. Petition is disposed of.

JUDGE

Comparing Assistant