GAHC030005722026

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

Case No. : I.A.(Crl.)/50/2026

Sh. Nilanjan Das and Anr.
S/o Sushil Kumar, R/o Amra Barie Village, West Bengal-743329 2: Sh. Dinesh Kuma

VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : Mr. Jordan Rohmingthanga

Advocate for the Respondent : P.P./Addl.PP, Mizoram

Linked Case : Crl.A./26/2026

Sh. Nilanjan Das and Anr.
S/o Sushil Kumar
R/o Amra Barie Village
West Bengal-743329

2: Sh. Dinesh Kumar
S/o Raghunath Singh
R/o Chhajapura Village
PS- Noorpur
UP-250205
VERSUS

The State of Mizoram
Aizawl

Advocate for the Petitioner : Mr. Jordan Rohmingthanga
Advocate for the Respondent : P.P./Addl.PP
Mizoram

BEFORE
HONOURABLE MR. JUSTICE SANJEEV KUMAR SHARMA
HONOURABLE MRS. JUSTICE HELEN DAWNGLIANI

ORDER

09.10.2026

(Helen Dawngliani, J)

Heard the learned counsels for the parties.

2. This application is filed under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for suspension of sentences passed by the learned Addl. District & Sessions Judge – I, Aizawl District in Sessions Case No. 43/2018 wherein, the instant applicants were convicted for the offense offence punishable under Section 376 D IPC, 376(2)m IPC and 326 A IPC. For the conviction under Section 376 D IPC, they were sentenced to undergo Rigorous Imprisonment for 20 years and to pay a fine of Rs. 20,000/- each and in default, to further undergo Simple Imprisonment for 2 (two) years. For conviction under Section 376(2)m IPC, they were sentenced to undergo Rigorous Imprisonment for a period of 10 (ten) years and to pay a fine of Rs. 20,000/- each and in default, to further undergo Simple Imprisonment for 2 (two) months and for conviction under Section 326 A IPC, they

were sentenced to undergo Rigorous Imprisonment for 12 years and to pay a fine of Rs. 20,000/- in default, to further undergo Simple Imprisonment for a period of 2 (two) months. It was also ordered that all the substantive sentences are to run concurrently and detention during investigation and trial was to be set-off as per Section 428 Cr.PC.

3. We have heard the learned counsels.

4. Mr. Jordan Rohmingthanga, the learned counsel for the applicants submitted that the judgment and conviction passed by the learned Trial Court was wrong and being aggrieved, they have challenged the same and by filing an appeal, which is pending disposal before this Court. The learned counsel submitted that during the trial of the said case, the applicants were on bail and they have fully complied with the bail conditions and attended court regularly. According to the learned counsel, the impugned judgment of conviction and sentence was perverse inasmuch, as the defence version was not appreciated in proper perspective and it had wrongly discarded the circumstantial evidence put forward by the defence.

5. It is the case of the learned counsel that the learned Trial Court had committed error and illegality in convicting the instant applicants solely on the basis of the testimony of the victim, despite glaring inconsistencies and the test identification period which prima facie exhibits irregularity. It is also the case of the

learned counsel that the chain of circumstances is broken and the prosecution has miserably failed to prove their case.

6. The learned counsel further submitted that both the applicants are married with children and they are the sole bread earner of their families and due to the false allegation made against them, they have been dismissed from their service and their respective families are already facing a lot of problems. Thus, considering their conduct during the period of trial wherein they had diligently attended the court for almost nine years, there is no danger of them absconding if the sentence is suspended and they are liable to be set at liberty during the pendency of the instant appeal. The learned counsel also submitted that in the event of the application being granted, they undertake to comply with all the conditions that may be imposed by the Court as it deems fit.

7. On the other hand, Ms. Mary L. Khiangte, learned Addl. P.P opposed the application by submitting that the applicants are convicted for heinous offence involving rape and acid attack and even though the learned Trial Court had come to the conclusion that the offence of murder under Section 302 was not proved, yet the fact and the record shows that the other victim had died. The learned Addl. P.P has placed on record the decision of the Hon'ble Apex Court in the case of **Jamnalal Vs. State of Rajasthan, 2025 INSC 935,** wherein the Hon'ble Apex Court has observed that for stay or suspension of sentence, what has to be looked

into is something which is palpably wrong or in other words, something which is very apparent or gross on the face of the record, on the basis of which the Court arrived at a prima facie satisfaction that conviction may not be sustainable. It was further observed that the Court while considering an application under Section 389 Cr.PC (430 BNSS) should not try to pick up a few lacuna or loopholes here or there in the case of prosecution and that such an approach is not a correct.

8. The learned Addl. P.P has also placed on record the decision of the Apex Court in the case of **Sandeep Singh Thakur Vs.State of Madhya Pradesh, 2025 SCC OnLine SC 2927** to bring home the point that sentences are suspended only in rare cases. In the aforesaid case sentence was suspended on the peculiar facts of the case that the appellant and the respondent could be brought together once again if they decide to marry each other. It was also submitted by the learned Addl. P.P that considering the heinousness of the crime and the fact that the matter is ready for hearing, the hearing of the appeal can be expedited and in support of the said submission, she has placed reliance in the case of **Lilaben vs. State of Gujarat & Anr. 2025 SCC OnLine SC 833**, wherein, the Apex Court has held that every practice of the Court must find its ultimate justification in the interest of justice. The practice not to release on bail a person who has been sentenced to life imprisonment was evolved in the High Courts and the Supreme Court on the basis that once a person has been found

guilty and sentenced to life imprisonment, he should not be let loose, so long as his conviction and sentence are not set aside, but the underlying postulate of this practice was that the appeal of such person would be disposed of within a measurable distance of time, so that if he is ultimately found to be innocent, he would not have to remain in jail for an unduly long period.

9. Upon perusal of the materials available on record, the offences for which the accused/applicants have been convicted, the grounds put forth in the application for stay/suspension of sentence and the stage of the appeal and the fact that the matter stands ready for hearing we are of the view that there was no palpable wrong which was glaring so as to persuade the Court to suspend the sentence at this stage.

10. Since the liberty of the applicants is involved, it is needless to mention that an attempt shall be made for early disposal of the connected appeal which according to the submission made by the learned counsels is otherwise ready for hearing.

11. With the above order, the application is disposed of.

JUDGE **JUDGE**

Comparing Assistant