

GAHC010009952026



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

Linked Case : **I.A.(Crl.)/90/2026**

LILA KANTA DHANDIA ALIAS LILA KANTA ALIAS LACHIT DHANDIA  
S/O SHRI MAHENDRA DHANDIA  
R/O VILL. URUAMPORA  
P.S. BIHPURIA  
DIST. LAKHIMPUR  
ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR  
REP BY THE PP  
ASSAM

2:SMTI PRATHANA BARIK

W/O GOBINDRA BARIK  
R/O VILL. URIAMPORA  
P.S. BIHPURIA  
DIST. LAKHIMPUR  
ASSAM  
PIN 784161

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Advocate for : MR. A CHAUDHURY  
Advocate for : PP  
ASSAM appearing for THE STATE OF ASSAM AND ANR

**B E F O R E**  
**HON'BLE MR. JUSTICE SANJEEV KUMAR SHARMA**

**ORDER**

**31.07.2026**

Heard Mr. A Choudhury, learned counsel for the petitioner. Also heard Mr. R J Borah, learned Addl. Public Prosecutor.

**2.** This is an application under Section 430(2) of the BNSS, 2023 for suspension of the sentence that was imposed by the learned Trial Court upon conviction of the applicant/appellant vide Judgment & Order dated 29.11.2025 sentencing the applicant/appellant to undergo R.I for 10 years and to pay a fine of Rs. 15,000/-, ID, S.I for 6 months under Section 64 BNS.

**3.** On 04.03.2025 the informant lodged an FIR before the In-charge of Bongalmora Police Out Post stating inter-alia that on 03.03.2025 at about 7:40 p.m., accused Shri Lila Kanta @ Lachit Dhandia went to the house of the informant during absence of other family members in her house and knocked at the door of her house and when she opened the door, the accused entered into her house. Then she asking to sit the accused, shut the door and then the accused all of a sudden grabbed her and started to kiss her, flung her on the sofa and forcefully committed rape on her and hence, the case.

**4.** I have heard Mr. A Choudhury, learned counsel appearing for the appellant who submitted that the learned Trial Court failed to appreciate that the evidence on record which is marred by serious contradictions, inasmuch as the victim had given three different statements before the police, Magistrate and the Medical Officer and moreover, the trial court reproduced the police statement of the victim and relied upon it, which is impermissible in law.

**5.** It is submitted that such contradiction undermines the credibility of the prosecution case. Further there is no other corroborative evidence including any medical any evidence to support the prosecution case. In the light of the above facts, the applicant/appellant may be released on bail by such suspending the sentence imposed by the learned Trial Court. On the other hand, the learned Addl. Public Prosecutor submitted that the statements of the victim before the Police, Magistrate as well as before the trial court has been largely consistent and moreover, in the case of this nature, the evidence of the prosecutrix is sufficient to establish the guilt of the accused if it is found to be credible and trustworthy.

**6.** The learned counsel for the applicant had placed reliance upon the judgment of the Hon'ble Supreme Court in *Bhagwan Rama ShindeGosai&Ors. Vs. State of Gujarat*, reported in (1999) 4 SCC 421, wherein it has been held as

follows:-

*“3. When a convicted person is sentenced to a fixed period of sentence and when he files an appeal under any statutory right, suspension of sentence can be considered by the appellate court liberally unless there are exceptional circumstances. Of course, if there is any statutory restriction against suspension of sentence it is a different matter. Similarly, when the sentence is life imprisonment the consideration for suspension of sentence could be of a different approach. But if for any reason the sentence of a limited duration cannot be suspended every endeavor should be made to dispose of the appeal on merits more so when a motion for expeditious hearing of the appeal is made in such cases. Otherwise the very valuable right of appeal would be an exercise in futility by efflux of time. When the appellate court finds that due to practical reasons such appeals cannot be disposed of expeditiously the appellate court must bestow special concern in the matter of suspending the sentence, so as to make the appeal right, meaningful and effective. Of course, appellate courts can impose similar conditions when bail is granted.”*

**7.** On the other hand, the learned Addl. Public Prosecutor has relied upon two very recent judgments of the Hon'ble Apex Court i.e. *Asif @ Pasha vs. State of U.P & Ors.*, 2025 INSC 944 and *Jamnial vs. State of Rajasthan*, reported in 2025 INSC 935 in both the aforesaid two decisions rendered on 6<sup>th</sup> August, 2025, after referring to various precedents, it has been held as follows:-

*“33. Bearing in mind the aforesaid principles of law, the endeavor on the part of the court, therefore, should be to see as to whether the case presented by the prosecution and accepted by the trial court can be said to be a case in which, ultimately the convict stands for fair chances of acquittal. If the answer to the abovesaid question is to be in the affirmative, as a necessary corollary, we shall have to say that, if ultimately the convict appears to be entitled to have an acquittal the hands of this Court, he should not be kept behind the bars for a pretty long time till the conclusion of the appeal, which usually takes very long for decision and disposal. However, while undertaking the exercise to ascertain whether the convict has fair chances of acquittal, what is to be looked into is something palpable. To put it in other words, something which is very apparent or gross on the face of the record, on the basis of which, the court can arrive at a prima facie satisfaction that the conviction may not be sustainable. The appellate court should not reappreciate the evidence at the stage of Section 389 CrPC and try to pick up a few lacunae or loopholes here or there in the case of the prosecution. Such would not be a correct approach.”*

**8.** The Supreme Court has held that inappropriate cases, the sentence can be suspended even if the appellant has not undergone half of the sentence.

**9.** Having been taken through the evidence on record, this Court while undertaking exercise to ascertain whether the convict has fair chances of

acquittal notices that the Medical Report mentions that the victim gave a history of consensual sex with the appellant and the same did not indicate any injury or sign of forceful sexual intercourse upon the victim, who was examined within 24 hours of the alleged incident.

**10.** From the above, it appears that the present is a fit case where the suspension of sentence is called for, considered on the touchstone of the principles laid down in *Asif @ Pasha (supra)* as well as *Bhagwan Rama ShindeGosai & Ors. (supra)*.

**11.** In view of the above, the prayer for suspension of sentence and consequent bail is allowed. Reminder of the impugned sentence stands suspended and appellant is directed to be released on bail of Rs. 50,000/- (Rupees Fifty Thousand only) with one surety for like amount to the satisfaction of the learned Trial Court, North Lakhimpur in connection with Sessions Case No. 51(NL)2025.

**12.** I.A stands disposed of accordingly.

**JUDGE**

**Comparing Assistant**