

GAHC010055202026



2026:GAU-AS:3986

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

Case No. : Crl.Pet./395/2026

KRISHNA SAIKIA
S/O KAMALESWAR SAIKIA, R/O VILL. LATAGUA, P.S. RUPOHI, DIST
.NAGAON AND PRESENTLY R/O HOUSE NO 69, KEKURA NAGAR, P.S.
DISPUR, PIN 781005, P.O. DISPUR, DIST. KAMRUP M, ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR
REP BY THE PP, ASSAM

2:ANIMA BARMAN
W/O OBEN BARMAN
R/O HOUSING COLONY ROAD
SANKARDEV NAGAR PATH
GANESHGURI
P.O. DISPUR
P.S. DISPUR
GUWAHATI 781005
DIST. KAMRUP

Advocate for the Petitioner : MR. T DEURI, MS LUBNA CHOUDHURY,MR ARINDAM
BARUAH

Advocate for the Respondent : PP, ASSAM,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

19.03.2026

Heard Mr. T. Deuri, the learned counsel appearing for the petitioner. Also heard Mr. Bhaskar Sharma, the learned Addl. Public Prosecutor, Assam.

2. This an application under Section 528 of the BNSS, 2023 challenging the order dated 07.03.2026 passed by the learned Special Judge, POCSO, Kamrup (M) at Guwahati in Sessions (Spl.) Case No.22/2023.

3. The petitioner Krishna Saikia is facing trial in the aforementioned case. The victim (PW-3) was about 7 years old when the occurrence took place. She was examined as a prosecution witness and discharged after cross-examination.

4. Thereafter, on 07.03.2026, the petitioner filed an application before the court below under Section 311 of the Code of Criminal Procedure praying for recalling the victim (PW-3) for further cross-examination. The learned trial court refused the prayer of the petitioner.

5. The learned trial court relied upon Section 33(5) of the POCSO Act and on two decisions of the Hon'ble Supreme Court that were delivered in *Rajaram Prasad Yadav v. State of Bihar*, reported in *AIR 2013 SC 308* and *State of NCT of Delhi v. Shiv Kumar Yadav*, reported in *(2016) 2 SCC 402*.

6. The learned Addl. P.P. Mr. Sharma has submitted that when the occurrence took place, she was about 7 years old. She was examined as a witness on 9th April, 2024 and she was cross-examined on 23rd April, 2024. Mr. Sharma has submitted that the

application filed by the petitioner was filed just to delay the disposal of the case.

7. I have considered the submissions made by the learned counsel of both sides.

8. I have decided to agree with Mr. Sharma that the petition filed by the petitioner has no merit at all.

9. The victim girl was examined almost one and a half years after commission of the offence on 2nd October, 2022. She is also growing day-by-day. I agree with the trial court that the victim might not remember or recall every facts related to the offence.

10. The impugned order is a well reasoned one and does not require any interference of this Court. This Court is of the opinion that the present criminal petition is devoid of any merit and stands dismissed accordingly.

JUDGE

Comparing Assistant