

GAHC010073072025



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

Case No. : I.A.(CrI.)/1349/2025

MUNINDRA KALITA
S/O
LATE RAJANI KALITA
R/O
DAKHIN LENGA
P.O AND P.S BAIHATA CHARIALI
DIST- KAMRUP
ASSAM

VERSUS

THE STATE OF ASSAM
REP BY PP ASSAM

2:SANKAR DEKA
S/O
LATE RAMANI DEKA
R/O
VILL- RUDRESWAR
P.S. CHANGSARI
DIST- KAMRUP ASSAM

Advocate for : MRS SANGEETA KHATANIAR
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

Linked Case : CRL.A(J)/199/2025

MUNINDRA KALITA
S/O, LATE RAJANI KALITA
R/O, DAKHIN LENGA,

P.O. AND P.S BAIHATA CHARIALI
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ASSA

Advocate for the Petitioner : MRS SANGEETA KHATANIAR, MRS. S KHATANIAR, LEGAL AID COUNSEL

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 27.02.2026
(M. Zothankhuma, J)

Heard Mrs. S. Khataniar, learned Legal Aid Counsel for the applicant-appellant. Also heard Ms. B. Bhuyan, learned Sr. Counsel and Addl. P.P. for the State.

2. This is an application under Section 430 BNSS for suspending the sentence inflicted upon the applicant-appellant pursuant to the impugned Judgment dated 07.06.2023, passed by the learned Addl. Sessions Judge-cum-Special Judge (POCSO), Amingaon, Kamrup, in Special (P) Case No.01/2022 arising out of

Changsari P.S. Case No.505/2021, by which the applicant-appellant had been convicted under Section 6 of the POCSO Act.

3. The learned counsel for the applicant-appellant submits that the medical evidence only states that there was redness on both sides of the labia minora and tenderness was present in those areas. However, the hymen was intact. Further, in the opinion of the Doctor, there was no evidence of recent sexual intercourse. She accordingly submits that when sexual intercourse has not been proved, the conviction of the applicant-appellant on that score was erroneous.

4. Ms. B. Bhuyan, learned Addl. P.P., on the other hand, submits that the evidence of the informant (PW-1) read with the evidence of the victim (PW-2) and the mother (PW-3), proved the fact that there was sexual intercourse between the applicant-appellant and the victim. Further, though the medical evidence does not fully corroborate the fact of there being sexual intercourse between the applicant-appellant and the victim, the concerned Doctor (PW-4) had stated that the genital findings made by him was suggestive of there being recent genital manipulation.

5. We have heard the learned counsels for the parties.

6. On perusing the evidence of PW-1, who stated that on coming back after 5 minutes into the house, he saw the victim naked and the applicant-appellant making the victim put on her underwear, coupled with the evidence of PW-3, we are not inclined to allow the present application.

7. The I.A. is accordingly dismissed.

8. Any findings or observations made in this order shall not be construed to

be the final findings and observations made by this Court at the time of final hearing.

JUDGE

JUDGE

Comparing Assistant