

GAHC010092132024



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

Case No. : I.A.(Crl.)/453/2024

MD. RAFIK ALI
S/O LATE FAZUR ALI @ FECHA
VILL.- MADHUPUR
P.S.- BARAMA
DIST.- BAKSA
B.T.A.D. (ASSAM).

VERSUS

THE STATE OF ASSAM
REP. BY P.P.
ASSAM.

Advocate for : MR. T J MAHANTA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 20.05.2024
[M. Choudhury, J]

Heard Mr. T.J. Mahanta, learned Senior Counsel assisted by Ms. P. Sharma, learned counsel for the applicant-appellant and Ms. B. Bhuyan, learned Senior Counsel and learned Additional Public Prosecutor assisted by Ms. M.

Chakraborty, learned counsel for the opposite party, State of Assam.

2. The instant application under Section 389 of the Code of Criminal Procedure, 1973 has been preferred seeking suspension of execution of sentence passed against the applicant, Md. Rafik Ali and for his release on bail. The applicant has preferred the connected appeal against a Judgment and Order dated 07.03.2024 passed by the Court of learned Sessions Judge, Baksa at Mushalpur in Sessions Case no. 82/2022.

3. By the said Judgment and Order dated 07.03.2024, the learned trial court has convicted the accused persons, Md. Rafik Ali [A-1] and Md. Jeherul Ali [A-2] for the offences under Sections 302, Indian Penal Code [IPC] read with Section 34, IPC and under Section 365, IPC read with Section 34, IPC. Both the accused persons are sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 2,000/- each, in default of payment of fine, to undergo simple imprisonment for another 6 [six] months each for the offence under Section 302, IPC read with Section 34, IPC. For the offence under Section 365, IPC read with Section 34, IPC, the accused persons are sentenced to undergo rigorous imprisonment for 3 [three] years and to pay a fine of Rs. 2,000/- each, in default of payment of fine, to undergo simple imprisonment for another 3 [three] months each.

4. Issue notice, returnable in 4 [four] weeks.

5. As Ms. Bhuyan, learned Senior Counsel and learned Additional Public Prosecutor has appeared and accepted notice on behalf of the opposite party, issuance of formal notice is dispensed with.

6. The learned counsel for the applicants-appellants shall furnish a copy of

the application along with annexures to Ms. Chakraborty within 3 [three] working days from today.

7. Learned Additional Public Prosecutor is to file objection on or before the returnable date.

JUDGE

JUDGE

Comparing Assistant