

GAHC010114542025



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

Case No. : I.A.(Crl.)/555/2025

BIPIN KUMAR
S/O SRI DHARMENDRA KUMAR, VILL AND P.S BAKHTIARPUR, DIST.-
PATNA, BIHAR

2: VIRA MAHATO
S/O LATE BASANTA MAHATO
VILL.- GULAMAHIYA CHOK
P.S. MOJIPUR NADDI
DIST.- PATNA
BIHA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP ASSAM

Advocate for the Petitioner : M PATHAK,

Advocate for the Respondent : PP, ASSAM,

Linked Case : Crl.A./219/2023

SURAJ KUMAR ROY
S/O KISANDEV ROY
R/O KUMARDUBI
KALYARI
P.S.- CHIRKUNDI
DIST.- DHANBAD

JHARKHAND
PIN- 828202.

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY THE PUBLIC PROSECUTOR
ASSAM

2:SANJIB CHOUDHURY
S/O LATE SUNIL CHOUDHURY
VILL.- ABHAYAPURI
WARD NO. 3
P.S.- ABHAYAPURI
DIST.- BONGAIGAON
ASSAM.

Advocate for : MR. S MITRA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

Linked Case : CrI.A./171/2023

BIPIN KUMAR AND ANR.
S/O DHARMENDRA KUMAR
RESIDENT OF VILLAGE AND PS BAKTIARPUR
DIST PATNA BIHAR

2: VIRA MAHATO
S/O LATE BASANTA MAHATO

VILLAGE GULAMAHIYA CHOK
PS MOJIPUR NADDI
DIST PATNA
BIHAR.
VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for : M PATHAK
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MR. JUSTICE ANJAN MONI KALITA

ORDER

05.08.2025

(M. Zothankhuma, J)

Heard Mr. M. Pathak, learned counsel for the applicants/appellants. Also heard Ms. A. Begum, learned Addl. P.P., Assam for the State.

2. The case of the applicants along with another convict namely, Suraj Kumar Roy is that they were convicted under Section 20(b)(ii)(c) of the NDPS Act vide judgment and order dated 09.03.2023, passed by the learned Special Judge, Bongaigaon, in Special (Nar) Case No.23(BGN) of 2022 and sentencing them to undergo rigorous imprisonment for 15 years with a fine of Rs.1,00,000/- each, in default, to undergo simple imprisonment for 6 months.

3. The applicants, besides filing the appeal, had also filed an application under Section 430 BNSS for suspension of the sentence imposed by the learned Trial Court. The said application had however been rejected by this Court on 26.09.2023. The application under Section 430 BNSS that had been filed by co-accused Suraj Kumar Roy had also been rejected vide order dated 05.10.2023.

3. Suraj Kumar Roy thereafter approached the Hon'ble Supreme Court vide Criminal Appeal No.2642/2025. The same was disposed off by the Supreme Court vide order dated 16.05.2025, by granting bail to Suraj Kumar Roy, on the ground that the Criminal Appeal that had filed by the appellant Suraj Kumar Roy was not likely to be heard in the near future and due to the fact that the antecedence of Suraj Kumar Roy had not been brought on record.

4. The counsel for the applicants submits that the applicants herein should be granted parity of the benefit provided by the Supreme Court to Suraj Kumar Roy.
5. The learned Addl. P.P., on the other hand, submits that as the application for suspension of sentence of the present applicants had earlier been rejected by the Division Bench of Hon'ble Mr. Justice K.R. Surana and Hon'ble Mr. Justice M.K. Kalita, the present application would have to be heard by the same Bench, in terms of the notification issued by the High Court.
6. On considering the above aspects and keeping in view the fact that Paper Book has been prepared, besides the fact that this Bench is ready to hear the entire matter even today, this Court is of the view that the matter should be heard expeditiously.
7. The applicants' counsel submits that the matter may not be heard today, as he is not prepared for the case.
8. Accordingly, on the prayer of the applicants counsel, list this application along with the main appeals for hearing on **28.08.2025**.
9. Mr. S. Mitra, learned counsel for the appellant in CrI. A. 219/2023 is present.

JUDGE

JUDGE

Comparing Assistant