

GAHC010133042025



2026:GAU-AS:7336

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

Case No. : I.A.(CrI.)/667/2025

SRI ABINASH BAGH
S/O- LATE GOPAL BAGH, R/O- PANERY TEA ESTATE, P.S. PANERY, PO
PANERY CHAR BAGICHA, DIST. UDALGURI, ASSAM 784523

VERSUS

THE STATE OF ASSAM
REP BY PP ASSAM

2:SMTI X
D/O SRI MANGAL TANTI
RESIDENT OF BHUTIYA CHANG TEA ESTATE
PURANI LINE
PANERY
PS PANERY
PO HARISINGA
DIST UDALGURI
ASSAM 78452

Advocate for the Petitioner : MR. M RAHMAN,

Advocate for the Respondent : PP, ASSAM, MR. D K BHATTACHARYYA, AMICUS CURIAE (R-2)

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 26.05.2026

Heard learned counsel Mr. M. Rahman for the applicant Sri Abinash Bag, who has filed this application under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023, with prayer for suspension of sentence during the pendency of the connected appeal, registered as CrI.A(J)/93/2022.

2. The applicant was convicted under Section 376 of the Indian Penal Code, 1860 (IPC for short) and sentenced to undergo simple imprisonment for 10 (Ten) years and to pay a fine of Rs.1000/- (Rupees One Thousand) with default stipulation and convicted under Section 4 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo imprisonment for 10 (Ten) years and to pay a fine of Rs.1000/- (Rupees One Thousand) with default stipulation. Both the sentences are to run concurrently.

3. Heard learned Additional Public Prosecutor Mr. K.K. Parashar for the respondent State and learned Amicus Curiae for the respondent No. 2, who have raised objection, stating that the applicant is convicted under a serious offence. Instead of suspending the sentence, the entire appeal is to be heard.

4. *Per contra*, learned counsel for the applicant has submitted that the appeal is likely to succeed as there are various contradictions between the statements of the witnesses and the statement of the IO.

5. The applicant has undergone almost half of the sentence imposed upon him. Moreover, the applicant has prayed for bail at this stage as his mother is suffering from old aged ailments and the applicant has to attend to his mother as there is no one to take care of his old and ailing mother. It is further submitted that on the basis of false statement of the victim, the learned Trial Court without properly assessing the evidence, leading to truth, held the applicant guilty.

6. I have considered the submissions at the bar with circumspection. I have also scrutinized the scanned copies of the Trial Court Records. I have also considered the submission that the applicant's mother is ailing. I have considered the medical documents regarding the ailment of the applicant's mother whose age is around 56 (Fifty Six) years at present. The applicant has already undergone 4 (Four) years 3 (Three) months of the sentence imposed upon him.

7. Considering the entire aspect of the matter, the applicant is enlarged on bail on furnishing a bail bond of Rs.20,000/- (Rupees Twenty Thousand) with a suitable surety of like amount to the satisfaction of the learned Trial Court. The operation of the order of conviction and sentence vide the judgment and order dated 19.02.2022 passed by the learned Sessions Judge, Udalguri in connection with Special POCSO Case No. 63/2019, is stayed until further orders.

8. In terms of the above observation, this interlocutory application stands disposed of.

JUDGE

Comparing Assistant