

GAHC010235712025



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

Case No. : I.A.(Crl.)/1154/2025

SRI NIRMAL PAUL
SON OF LATE NARAYAN PAUL ALIAS NITAI PAUL RESIDENTS OF VILLAGE
- GOBARDHAN, GHORAMARA, JANPAM PIN-781150 UNDER
PRAGJYOTISHPUR POLICE STATION IN THE DISTRICT OF KAMRUP M
ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P. ASSAM.

2:SRI AJOY PAUL
SON OF LATE SUBAL PAUL
RESIDENT OF VILLAGE- GOBARDHAN
GHORAMARA
JANPAM
P.O. -CHANDRAPUR
PIN781150
UNDER PRAGJYOTISHPUR POLICE STATION IN THE DISTRICT OF
KAMRUP M ASSAM

Advocate for the Petitioner : MR S I AHMED, MR. N AHMED

Advocate for the Respondent : PP, ASSAM,

In Crl.A./50/2016

SRI NIRMAL PAUL and ANR
S/O LATE NARAYAN PAUL @ NITAI PAUL

2: SANJU PAUL

S/O LATE NARAYAN PAUL
BOTH ARE THE R/O VILL. GOBARDHAN
GHORAMARA JANPAM
P.S. PRAGJYOTISHPUR
DIST. KAMRUP M
VERSUS

THE STATE OF ASSAM and ANR

2:AJOY PAUL
S/O LATE SUBAL PAUL
THE R/O VILL. GOBARDHAN
GHORAMARA JANPAM
P.O. CHANDRAPUR
P.S. PRAGJYOTISHPUR
GUWAHATI 781105
DIST. KAMRUP M
ASSAM

Advocate for : MR.B I KHAN

Advocate for : MR.A D CHOUDHURY R-2 appearing for THE STATE OF ASSAM
and ANR

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

16.07.2026

(M. Zothankhuma, J)

1. Heard Mr. N. Ahmed, learned counsel for the applicant. Also heard Mr. R.R. Kaushik, learned Additional Public Prosecutor.

2. This application under Section 389 Cr.P.C is for suspending the sentence to be undergone by the applicant, pursuant to his conviction under Section 302/34 IPC vide the impugned judgement dated 11/01/2016, passed by the Court of the Additional Sessions Judge No.II, Kamrup (Metro), in Sessions Case

No.437(K)/2011, arising out of GR Case No.1392/2001.

3. The applicant's counsel submits that out of the 7 appellants, who have filed 4 analogous appeals pertaining to the same impugned judgement, 6 of them have been released on bail. He accordingly submits that as the applicant is the only remaining applicant in jail with an unwell wife to look after, the applicant should also be released on bail. The applicant's counsel also submits that the applicant was on bail during trial before the learned Trial Court and as such, there is no question of the applicant absconding, if released on bail. He also submits that the learned Trial Court could not have convicted the appellant/applicant under Section 302/34 IPC, as material evidence had not been considered by the learned Trial Court, which would have acquitted the appellant/applicant from the charge under Section 302/34 IPC.

4. Mr. R.R. Kaushik, learned Additional Public Prosecutor submits that the present application should be dismissed, inasmuch as, the matter is ripe for hearing and the same can be disposed of at any time by this Court. He also submits that the applicant is the main culprit who had orchestrated the death of the deceased. As such, the application should be rejected as there is no *prima facie* case showing the innocence of the applicant.

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

6. As can be seen from the records, the matter has been pending a considerable time for hearing and the applicant has been in judicial custody for

more than 10 years. Though the matter is ripe for hearing, we are of the view that, in view of the applicant's long incarceration in jail and the fact that he had been on bail at the time of trial, he may be released on bail for the time being and till disposal of the final appeal.

7. Accordingly, the applicant is released on bail on furnishing a bond of Rs.50,000/-, with one surety of like amount, to the satisfaction of the learned Additional Sessions Judge No.II, Kamrup (Metro). Consequently, the sentence to be undergone by the applicant pursuant to his conviction, vide judgement dated 11/01/2016 passed by the learned Additional Sessions Judge No.II, Kamrup (Metro), in Sessions Case No 437(K)/2011 shall remain suspended. Any condition of bail, if violated by the applicant, shall entail automatic cancellation of the bail.

8. The I.A.(Crl.) is accordingly disposed of .

JUDGE

JUDGE

Comparing Assistant