

GAHC010278812024



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

Case No. : I.A.(CrI.)/1/2025

FARUK AHMED BARBHUIYA
S/O. ALA UDDIN BARBHUIYA, VILL. JAMIRA PART-III, P/O. JAMIRA BAZAR,
P/S. RAMNATHPUR, DIST. HAILAKANDI, ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM.

Advocate for the Petitioner : MR. A M BARBHUIYA, S. M. ZINNA,MS S R
MAZARBHUIYA,MS A BEGUM

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

Date : 26.02.2026

Heard Mr. A.M. Barbhuiya, learned Counsel for the applicant and Mr M.P.

Goswami, learned Additional Public Prosecutor appearing for the State.

2. By this application filed under Section 430 of BNSS, 2023 read with
Section 442 and 528 of BNSS, 2023, the applicant has prayed for suspension

of the sentence and consequent bail to be granted to him. The applicant was convicted by judgment and order dated. 03.12.2024 passed by the learned Sessions Judge, Hailakandi, Assam in Sessions Case No. 37 of 2023 and was sentenced to undergo rigorous imprisonment for 10 years with fine and default stipulation under Section 307 of the IPC.

3. Mr. A.M. Barbhuiya, learned counsel for the applicant submits that the case started with lodging of an FIR on 24.11.2021 lodged by the brother of the accused person which reveals that the applicant, who is the brother of the informant was speaking with their father and was asking for some money and pursuant to that there was a quarrel between the two brothers and suddenly the applicant assaulted the informant on his head and the informant became senseless who was later taken to the hospital by the villagers. The informant also stated that the applicant had assaulted their father also on previous occasions and due to fear of the applicant, the informant and his father left his house. More so, because of the fact that the applicant was moving around in a village saying that he will kill the informant as well as his father and out of the said fear, the informant lodged the ejahar. The learned Counsel for the applicant had placed the statement of the injured witness, who was examined as PW3, the brother of the applicant wherein he stated that the applicant often rebukes their father unnecessarily

and on the day of occurrence, the informant told the applicant not to fight with their father and at that juncture, the applicant assaulted the informant and cause the injuries. Mr. A.M. Barbhuiya, learned counsel for the applicant stated that there is contradiction between the statement of the father and the brother i.e. the informant. He placed this statement of the father, who was examined as PW2, who stated that the informant and the applicant were quarrelling on the day of the incident and when the situation went out of control, the informant told him to leave the place and he left the place and that after some time he saw cut injuries on the left side of his son i.e. the informant. He also submits that the mother and the sister of the applicant/informant were examined as DW1 and DW2, who did not support the case of the prosecution. As such, he submits that the applicant be released on bail by suspending the sentence.

4. Mr. M.P. Goswami, the learned Additional Public Prosecutor appearing for the State submits that the injured witness i.e. the informant had stated clearly in his deposition before the Trial Court that the applicant had assaulted him with a hoe and again later with a machete for which the informant sustained grievous injuries. He also placed the statement of the Doctor, who on perusal of the medical reports stated that the informant sustained injuries which were grievous in nature. He also submits that the

prosecution case is corroborated by the evidence of PW2, the father of the informant, who stated that on the day of occurrence, there was a fight amongst the two brothers and during the fight, the informant told him to leave the place and as such he left the place and took shelter in the jungle.

5. I have heard the Counsels and I have gone through the records.

6. It is seen that the instant case is not the only occurrence between the applicant and his family members. PW3, the informant, had stated both in the FIR as well as during his deposition before the Trial Court that the applicant used to rebuke his father unnecessarily very often and that on the day of occurrence, when he objected to such conduct of the applicant, the applicant attacked him and caused grievous injuries on his body which is substantiated by the Doctor, who was examined as PW5. The father, who had deposed as PW2 had although not seen the incident of assault but he stated that the victim and the applicant were indulging in a quarrel and when the quarrel turned into a fight, the informant told him to leave the place of occurrence and that he left the place. He however, stated clearly that the situation became very grave between his two sons.

7. In view of the statement made by the informant, who is the own brother of the applicant as well as the father of the applicant and the Doctor's evidence, this Court does not deem it fit to suspend the operation of

the judgment and order dated 03.12.2024 or release the applicant on bail.

8. The observation made in the said order will have no effect in the trial of the case or any other proceedings.

9. Petition is disposed of at this stage.

JUDGE

Comparing Assistant