

I.A. 1152/2016  
BEFORE  
HON'BLE MR. JUSTICE A.K. GOSWAMI

Heard Mr. M.B.U. Ahmed, learned counsel for the appellant. Also heard Mr. D. Das, learned Additional Public Prosecutor, Assam.

This is an application under Section 389 of the Code of Criminal Procedure, 1973 praying for suspension of execution of the sentence and realization of fine and for granting bail to the appellant during pendency of the appeal.

By judgment dated 01.02.2016 (wrongly written as 20.01.2016) passed by the learned Additional Sessions Judge, Dibrugarh in Sessions Case No.69/2013, the appellant was convicted under Section 363 IPC and sentenced to suffer rigorous imprisonment for 5(five) years and to pay a fine of Rs.5,000/- (Rupees Five Thousand), in default, to suffer further simple imprisonment for 6(six) months.

The incident took place on 02.04.2010 and the evidence of PW-1 and PW-2, father and mother of the victim, respectively, goes to show that the date of birth of the victim was 21.02.1996 and, therefore, she was, at the relevant point of time, about 14 years of age. The original birth certificate was also stated to have been taken away by the accused.

Having regard to the evidence on record, I do not consider it to be a fit case to suspend the sentence during pendency of the appeal.

Accordingly, this bail application is rejected.

I.A. is disposed of.