

GAHC010075342020



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

Case No. : I.A.(Crl.)/310/2020
in Crl. A. 138/2020

PRANJIT BARMAN
S/O- SRI SHIBA CHARAN BARMAN, R/O- PUB- KHAMARPARA, P.O.
BAGARGAON, P.S. BIJNI, DIST.- CHIRANG, BTAD, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY P.P., ASSAM

2:KHANESWAR BARMAN
S/O- LT. JAGENDRA BARMAN
R/O- VILL- NO. 1 SARAGAON
P.O. HAHCHORA
P.S. BIJNI
DIST.- CHIRANG
ASSAM PIN- 78339

Advocate for the Petitioner : MR. K BORUAH
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MIR ALFAZ ALI

ORDER

Date : 29.01.2021

Heard the learned counsel for the parties.

This is an application under Section 389 of the Cr.P.C., filed by the applicant/appellant, praying for suspension of sentence and bail.

The applicant/appellant was convicted by the learned Special Judge, Bijni in Special (P) Case No. 45(B)/2019 under Section 6 of the POCSO Act and sentenced to rigorous imprisonment for 10 years and fine of Rs. 10,000/- with default stipulation.

The appeal filed by the appellant has been admitted.

Learned counsel for the applicant/appellant Mr. P.J. Saikia, referring to the evidence of the witnesses, including the statement of the victim, submits that there was a love affair between the accused appellant and the victim and even if there was any sexual activity that was consensual. Mr Saikia further submits that there was an endeavour to settle the matter amicably before lodging the FIR and the FIR was lodged after four days of the occurrence.

I have gone through the evidence brought on record. On perusal of the evidence brought on record, it is apparent that at the time of occurrence, the victim girl was minor and on the basis of the evidence so far brought on record, it cannot be said that prima facie the offence has not been made out. Having considered the gravity of the offence and the materials on record, this Court is of the view that it is not a fit case for suspension of sentence and granting bail. Accordingly, the prayer is rejected.

This I.A. accordingly stands disposed of.

JUDGE

Comparing Assistant