GAHC010151382026

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

I.A.(Crl.)/814/2026

ABDUL QAYUM
S/O ABDUL BARIK SK
R/O KISMAT HASDA
PART III
P.S. DHUBRI
DIST. DHUBRI
ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR.
REPRESENTED BY THE PP
ASSAM.

2:SABEDA BIBI
W/O OSMAN GANI
R/O VILL. SIJUBARI HATIGAON
P.S. HATIGAON
GUWAHATI
KAMRUP M
ASSAM.

Advocate for : MR. U S BORA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

HON'BLE MR. JUSTICE SANJEEV KUMAR SHARMA

O R D E R

15.10.2026

(P.J. Saikia, J)

Heard Mr. S. Borthakur, the learned senior counsel appearing for the applicant. Also heard Ms. B. Bhuyan, the learned senior counsel appearing for the State of Assam as well as Mr. A.H. Mollah, the learned counsel representing Respondent No.2.

2. This is an application under Section 430 of the BNSS, 2023 praying for suspension of sentence and for releasing the applicant Abdul Qayum on bail.

3. On 04.04.2023, an FIR was lodged before Soulmari Out Post under Dhubri Police Station wherein it was stated that the informant was earlier married to the elder brother of the present applicant. They got separated later on and the informant married another man. It may be mentioned that the informant had three children from her first marriage.

4. The informant has alleged that her elder daughter from her first marriage informed her over phone that her 17 year old younger daughter from her first marriage was pregnant. The informant has alleged that it was done to her younger daughter by the present applicant.

5. The applicant was convicted by the trial court under Section 376(2)(n) of the Indian Penal Code and under Section 6 of the POCSO Act. The applicant was sentenced to undergo 20 years of rigorous imprisonment and was also sentenced to pay a fine of ₹25,000/- with default stipulations.

6. We have carefully gone through the evidence of the victim girl.

7. The learned counsel for the Respondent No.2 as well as Mr. Borthakur have submitted that the applicant has already married the said girl and have been blessed with a child also.

8. Considering all these facts, this Court is of the opinion that the prayer of the applicant deserves to be allowed at this stage. Therefore, it is hereby directed that the sentence imposed upon the applicant in Special Case No.118/2023 by the learned Special Judge (POCSO), Dhubri shall remain stayed till disposal of the connected appeal.

9. The applicant Abdul Qayum shall be released on bail of ₹25,000/- with a surety of like amount to the satisfaction of the learned Special Judge (POCSO), Dhubri.

With the aforesaid direction, this Interlocutory Application is disposed of.

JUDGE **JUDGE**

Comparing Assistant