GAHC030005012026

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

Case No. : I.A.(Crl.)/39/2026

Sh. Abdul Rauf
S/o Jalal Uddin
R/o Baruyali
Patherkandi
District- Karimganj
Assam. Present Address-Tuidam
Mamit District
Mizoram

VERSUS

The State of Mizoram and Anr.
Aizawl

2:Sh. Vanlalthanga
S/o K. Thanthuama (L)
R/o Tuidam Venghlun
District- Mamit
Mizoram. Pin No-796441

Advocate for the Petitioner : Mr. Abul Hussain Borbhuya
Advocate for the Respondent :

Linked Case : **Crl.A./19/2026**

Sh. Abdul Rauf
S/o Jalal Uddin, R/o Baruyali, Patherkandi, District- Karimganj, Assam

VERSUS

The State of Mizoram and Anr.
Aizawl2:Sh. Vanlalthanga
S/o K. Thanthuama (L)

R/o Tuidam Venghlun
District- Mamit
Mizoram
Pin No-79644

Advocate for the Petitioner : Mr. Abul Hussain Borbhuya

Advocate for the Respondent : P.P./Addl.PP, Mizoram

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MRS. JUSTICE HELEN DAWNGLIANI
ORDER

14.10.2026

(M. Zothankhuma, J)

Heard Mr. K. Baishya, learned counsel for the applicant. Also heard Ms. Linda L. Fambawl, learned Public Prosecutor and Mr. C. Tlanthianghlima appearing on behalf of Ms. Emily L. Chhangte, learned counsel for respondent No. 2.

2. This is an application under Section 430 of the BNSS, praying for suspension of the sentence being undergone by the applicant/appellant, pursuant to the impugned Judgment & Order dated 29.04.2026 passed by the learned Presiding Officer, Fast Track Special Court, POCSO, Aizawl, in Crl.Tr. No. 1429/2021, A/o Kawrthah P.S Case No. 5/2021, by which the applicant/appellant has been convicted under Section 6 of the POCSO Act and sentenced to undergo Rigorous Imprisonment for 20 years with a fine of Rs. 5,000/- in default, to undergo SI for 3 (three) months.

3. The applicant’s counsel submits that there is no dispute with regard to the fact that the victim's age was around 15 years, 14 days at the time of the incident. However, the applicant could not have been convicted under Section 6

of the POCSO Act, when Section 5(m) of the POCSO Act provides for punishment under Section 6, only if the victim is below 12 years of age.

4. The learned counsels for the respondents, on the other hand, submit that the impugned judgment and the charge framed against the applicant/appellant, shows that he has been charged with having sexual intercourse with the victim multiple times, and as such, there is no infirmity with the decision of the learned Trial Court in convicting the applicant under Section 6 of the POCSO Act.

5. We have heard the counsels for the parties.

6. Section 5(l) of the POCSO Act provides punishment under Section 6 to an accused, for having sexual intercourse with a minor, multiple times. The charge framed against the appellant/applicant shows that he has been charged with having sexual intercourse with the victim multiple times. In that view of the matter, we do not find any infirmity with the conviction of the appellant under Section 6 of the POCSO Act.

7. Accordingly, the application is dismissed.

8. The above being said, any observation and finding made by us in this order, shall not be construed to be the final observation or finding made at the time of hearing the appeal. We would also like to state that in view of the appeal being fixed for final hearing on 16.12.2026, we are also of the view that the present application should not be allowed at this stage.

JUDGE **JUDGE**

Comparing Assistant