

GAHC010037892024



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

Case No. : I.A.(Crl.)/186/2024

KHALILUR RAHMAN
S/O LT. MOTIUR RAHMAN HAZARIKA, VILL. BOGIDAL SINGHADOWR, P.S.
SIVASAGAR, DIST. SIVASAGAR, ASSAM.

VERSUS

THE STATE OF ASSAM CBI
REP. BY THE STANDING COUNSEL, CBI, ASSAM

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : SC, CBI

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

04.03.2024

Heard Mr. M.U. Mahmud, learned counsel for the applicant and also heard Mr. M. Haloi, learned Special P.P. for the respondent CBI.

2. This interlocutory application is preferred by applicant, namely, Khalilur Rahman, for extension of 1(one) month's time to surrender before the Court of learned Special

Judge, CBI, Assam, to serve out the remaining period of sentence, in view of the judgment dated 12.02.2024 passed by this Court in Criminal Appeal No.210/2009.

3. It is to be noted here that the applicant stood convicted by the learned Special Judge, CBI, Assam, in Special Case No.07/2005 vide judgment and order dated 21.10.2009, under Section 419/420 IPC, read with Section 13(1)(d)/13(2) of the Prevention of Corruption Act and after hearing learned Advocates of both sides, the appeal was disposed of by this Court vide order dated 12.02.2024, confirming conviction and sentence of the applicant under Section 13(1)(d)/13(2) of the P.C. Act, while acquitting him of the other charges under Section 419/420 IPC.

4. Mr. Mahmud, learned counsel for the applicant submits that though there is no provision in the Cr.P.C. for extension of time, yet, there is precedent that time may be granted to surrender before the learned Court below to serve out the sentence. Mr. Mahmud further submits that the applicant is ready to surrender to serve out the sentence, but he has been suffering from back-pain, fever, headache and neurological disorder, etc. and therefore, it is contended that time may be extended by a period of 1(one) month. Mr. Mahmud also referred to one order dated 06.10.2017, of the High Court of Gujarat at Ahmedabad and another order dated 08.02.2022 of the High Court of Judicature at Madras, wherein the time to surrender was extended, in support of his submission.

5. Whereas, Mr. Haloi, learned Special P.P. for the respondent CBI submits that the grounds assigned for extension of time is not at all satisfactory and referring to Annexure-'C' of the petition, Mr. Haloi submits that the applicant is suffering from back pain, fever & headache and neurological disorder and that Annexure-'C' is a prescription issued by a doctor of a private hospital and that the treatment of the same is available in the jail and on such count, the grounds so assigned by the learned counsel for the applicant is not at all sustainable and therefore, Mr. Haloi contended to dismiss the same.

6. Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the two

decisions of the High Court of Gujarat at Ahmedabad and another of the High Court of Judicature at Madras.

7. To a pointed query of this Court, Mr. Mahmud, learned counsel for the applicant submits that there is no provision in the Cr.P.C. in respect of extension of the time to surrender, but he submits that some of the High Courts have extended time to surrender.

8. I have carefully gone through the medical document Annexure-'C' at page-55 of the petition, which indicates that the applicant is suffering from back pain, fever & headache and neurological disorder. The disease in which the applicant is statedly suffering from, appears to be not of such nature so as to dissuade him from surrendering before the Court below in compliance with the direction of this Court. Indisputably also, there is no provision in the Cr.P.C. for extension of time and the order so placed before this Court passed by the High Court of Gujarat at Ahmedabad and the High Court of Judicature at Madras, cannot be read as precedent, as no law has been discussed or laid down in the same.

9. Under the aforementioned facts and circumstances, this Court finds no merit in this I.A. and accordingly, the same stands dismissed.

Sd/- Robin Phukan
JUDGE

Comparing Assistant