

GAHC010025992023



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

Case No. : Crl.Pet./120/2023

MD. ISHADUL ISLAM @ ISHADUR RAHMAN
S/O- MD. JALAL UDDIN, VILL.- PUB BANDARMELA, P.O. CHARING, P.S.
MURAJHAR, DIST. HOJAI, ASSAM, PIN- 782442.

VERSUS

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

2:FATARUN NESSA
W/O- LIAKAT ALI
R/O- PUB- BANDARMELA (JALALABAD)
P.O. MURAJHAR (CHOUDHURY BAZAR OUT POST)
DIST. HOJAI
ASSA

Advocate for the Petitioner : MR J ABEDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

09.02.2023

Heard Mr. J. Abedin, learned counsel for the petitioner. Also heard Mr. B.B. Gogoi, learned Addl.P.P. appearing for the State respondent.

2. The petitioner has filed an application under Section 482 Cr.P.C. for recalling/cancelling and quashing the order of issuance of warrant of arrest dated 26.09.2019 passed by the learned Judicial Magistrate, 1st Class, Hojai, Sankardev Nagar against the petitioner, in connection with G.R. Case No. 1799/2014, arising out of Murajhar P.S. Case No. 333/2014, under Sections 366(A)/34 IPC.

3. The learned Addl.P.P. has accepted notice on behalf of the respondent No. 1 and has received a copy of the petition.

4. It is submitted that vide order dated 26.09.2019, warrant of arrest was issued against the petitioner and summonses were issued against him on 23.06.2022 for appearance on 02.09.2022. Charge-sheet has been laid against the petitioner under Section 366(A)/34 IPC.

5. The copies of the order of the Court below has been annexed as Annexure-8 series and tagged along with the petition.

6. NBWA has been issued against the petitioners vide order dated 17.06.2022, 02.09.2022 and 17.12.2022. The petitioner has received the summons marked as Annexure-6. Due to an oversight summons has been issued, but the order passed on 02.09.2022 by the Court below was for issuance of warrant of arrest against the petitioner. The petitioner is willing to co-operate with the trail.

7. The petitioner has also submitted a status-report in connection with WP (C) No. 2/2015 submitted by the S.P. of Hojai.

8. It is submitted on behalf of the petitioner that the report reveals informant herself handed over her daughter to the co-accused of the petitioner.

9. I have considered the submissions at the bar.

10. The petitioner is willing to appear before the learned Judicial

Magistrate 1st Class and the petitioner is also willing to co-operate with the trial.

11. It is also submitted that the petitioner was not aware about the warrant being issued against him as he was in Mumbai and was working in a hotel continuously from 2019 and during the period when the pandemic was prevalent, notices were also not served properly due to the lock-down imposed during the pandemic.

12. In view of my foregoing discussions and considering all aspects, the prayer to quash the order of issuance of warrant of arrest against the petitioner is allowed.

13. Accordingly, the order dated 26.09.2019 and other orders pertaining to issuance of NBWA only against the petitioner is hereby quashed and set aside.

14. The petitioner is directed appear before the learned Court without further delay.

15. Application stands disposed of.

JUDGE

Comparing Assistant