

GAHC010060302023



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

Case No. : Crl.Pet./260/2023

KAMRUL HASSAN AHMED
S/O HANIFUDDIN AHMED
R/O VILL- KALGASIA
P.O. AND P.S. KALGASIA
DIST. BARPETA, ASSAM
PIN-781319

VERSUS

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

Advocate for the Petitioner : MR K BHUYAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 29-03-2023

Heard Mr. K. Bhuiya, learned counsel for the petitioner and also heard Mr. K.K. Das, learned Additional Public Prosecutor for State respondent.

By this application under section 482 Cr.P.C. the petitioner is praying for recalling

the impugned order of N.B.W.A. dated 04.03.2023, issued against the petitioner in C.R. Case No. 3457/2021.

It is submitted by the learned counsel for the petitioner that a complaint has been lodged against the present petitioner under section 138 of the N.I. Act, which was accordingly registered as CR Case No. 3457/2021 and after taking cognizance summon was issued to the petitioner. On 07.09.2022, after receiving the summon the petitioner appeared before the learned Court below and on which date, he was allowed to go on bail by the learned Court below and the case was fixed on the next date i.e on 14.11.2022.

But on 14.11.2022, the petitioner was absent with steps and accordingly next date was fixed on 05.01.2023 for offence explanation and on that day the petitioner was absent without steps due to unavoidable circumstance and hence N.B.W.A. was issued against the petitioner for absent on two subsequent dates. The learned counsel for the petitioner further submits that the accused petitioner is ready to appear before the learned Court below and will face the trail and accordingly prayed for suspension of the N.B.W.A issued against him by the learned trial Court vide order dated 04.03.2023.

In this context Mr. D. Das learned APP has submitted that the petitioner may be directed to appear before the learned Court below with a fresh petition for bail, which can be considered by the learned Court below in accordance with law.

After hearing the submission of the learned counsel for both sides, I have also gone through the case record and the annexure filed along with petition, it reveals that the N.B.W.A. was issued against the present petitioner considering his absence on two subsequent dates i.e on 05.01.2023 and 04.03.2023. It appears that the accused was otherwise regularly appearing before the learned Court below and only on two subsequent dates he could not appeared before

the learned Court below due to some unavoidable circumstances.

Considering other aspect of the matter, I find it proper to recall the N.B.W.A. issued against the present petitioner vide order dated 04.03.2023 with a direction to the present accused petitioner to appear before the learned J.M.F.C. Kamrup (M) within 7 days from the date of this order and till then the execution of N.B.W.A. issued against the present petitioner vide order dated 04.03.2023 by the learned J.M.F.C Kamrup (M) in connection with C.R. Case No. 3457/2021, shall remain suspended till the next date. The petitioner is further directed to file fresh application seeking regular bail before the learned Court below and the same may be considered by the learned Court below in accordance with law. With the observations made above, the petition stands disposed of.

JUDGE

Comparing Assistant