

GAHC010061082023



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

Case No. : Crl.Rev.P./125/2023

MASUDA BEGUM @ KHATUN
D/O GIAS UDDIN
R/O VILL- KADAMANIGAON
P.O. KADAMANI
PS. BATADRABA
DIST. NAGAON, ASSAM
PIN NO. 782122

VERSUS

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

2:NURZAMAL MOLLA
S/O MD. AFTER ALI MOLLA
R/O VILL- KADAMANIPATHER
P.O. KADAMANI
P.S. KADAMANI
DIST.NAGAON
ASSA

Advocate for the Petitioner : MR. N M SARKAR

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

Date : 23-03-2023

Heard Mr. N. M. Sarkar, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Public Prosecutor for the State respondent.

This is an application filed under Section 401 *read with* Section 397 of the Code of Criminal Procedure, 1973, praying for setting aside and quashing the impugned order dated 24.06.2019 & 30.01.2023 along with subsequent orders passed by the Special (POCSO) Judge, Nagaon in Special (POCSO) Case No.29(N)/2019, registered under Section 4 of the POCSO Act, 2012 & Dhing P.S. Case No.69/2017, registered under Section 366(A)/34 of the IPC.

It is submitted by the learned counsel for the petitioner, Mr. N. M. Sarkar that an FIR has been filed by the informant against the accused/petitioner alleging kidnapping of his minor daughter. Thereafter case was registered against her, registered under Section 366A/34 of the IPC. And charge-sheet was filed, showing the accused/petitioner as an absconding. Coming to know about the pendency of this case the petitioner approach before the Special Judge, POCSO, Nagaon, with a prayer for anticipatory bail, but, it was rejected by the said Court on the ground that the petitioner has remained absent since long time and NBWA was issued against her.

It is further submitted by the learned counsel for the petitioner that without issuing any summon, the learned Special Judge(POCSO) issued NBWA upon the accused/petitioner and hence, she could not appear before the learned Trial Court and filed two anticipatory bail prayer, which was rejected by the learned Trial Court. The petitioner is ready and willing to co-operate and face the trial, if she is allowed to appear before the learned Special Judge. In the

meantime, she also prayed for suspension of execution of NBWA.

In this context, Mr. P. Borthakur, learned Public Prosecutor has submitted that the accused/petitioner was absconding since 2019, and also two anticipatory bail prayer were already been rejected. In spite of that the petitioner remained absent and has not appeared before the learned Special Judge(POCSO), Nagaon.

Considering the submissions made by the learned counsels of both sides as well as considering the conduct of the petitioner and also considering the fact that the case is pending since last 2019; and in spite of rejection of two anticipatory bail prayer, passed by the learned Special Judge(POCSO), the petitioner has never appeared before the learned Trial Court and hence , I do not find it a fit case to suspend the order passed by the said Court on 24.06.2019 and 30.01.2023.

Further, on the submissions made by the learned counsel for the petitioner, I hereby asked the petitioner to appear before the learned Trial court and apply for regular bail and accordingly, the said court shall hear and dispose the matter in accordance with law.

With the above observations, this petition stands disposed of.

JUDGE

Comparing Assistant