

GAHC010061102023



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

Case No. : Crl.Pet./266/2023

PRAGYANJYOTI SAIKIA
S/O SRI GHANA KANTA SAIKIA
R/O SAWKUCHI, NEAR PINKI FURNITURE, P.O. SAWKUCHI, P.S. BASISTHA,
GUWAHATI (M), ASSAM

VERSUS

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

2:SRI PRADIP DAS
S/O LATE ROTI RAM DAS
R/O BAMUNPARA BORAGAON
P.S. GORCHUK
GUWAHATI

KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. R PHUKAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 22-03-2023

Heard Mr. R. Phukan, learned counsel for the petitioner.

Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State of Assam.

This is an application under section 401 Cr.P.C. praying for setting aside the impugned order dated 22.07.2021, whereby a warrant of arrest was issued and also subsequent orders whereby NBWA and P&A was issued against the petitioner, passed by the learned Magistrate First Class No. 4 Kamrup (M) in PRC Case No. 1191/2019.

It is submitted by the learned counsel for the petitioner that the petitioner was not aware of the pendency of this case and he has not received any notice in connection with aforementioned case. However, summon is issued against him and was received by his father as because he resides separately from his father inadvertently his father did not informed him about receipt of the summon, for which he is not aware of issuance of summon by the learned Court below against him. Subsequently, considering his absence, the learned Court below passed an order of issuance of warrant of arrest and thereafter on 05.03.2020 P&A issued against the present petitioner and subsequent thereto due to non-appearance of the petitioner, the learned Court below had issued on subsequent dates NBWA and P&A against the present petitioner. It is also submitted by the learned counsel for the petitioner that the petitioner is ready to appear before the learned Court below but till then he may be protected and prayed for staying of the operation of the P&A and NBWA issued against him.

In this Context the learned APP has submitted that the petitioner may be directed to appear before the learned Court below with a petition for regular bail. However, his prayer for suspension of the NBWA and P&A may not be considered at this stage.

After hearing the submission of learned counsel for both sides and also going

through the case record and order annexed along with the petition, it is seen that on 22.07.2019, the summons was received by the father of the present petitioner and considering his absence, warrant of arrest was issued against him and thereafter on several occasions the learned Court below tried to trace out the present petitioner and to procure his attendance. Finally, finding no alternative, P&A and NBWA was issued against the present petitioner. But, inspite of issuance of the P&A, the accused petitioner remains absent and did not appear before the learned Court below.

Thus, it is seen that the learned Court below took various steps and endeavor for procuring the attendance of the present petitioner. Accordingly, I do not find it a fit case to suspend the impugned order dated 22.07.20219, whereby a warrant of arrest was issued and also subsequent orders whereby NBWA and P&A was issued against the petitioner, by the learned Magistrate First Class No. 4 Kamrup (M) in PRC Case No. 1191/2019 at this stage.

Accordingly, the present accused petitioner hereby directed to approach the learned Court below with a fresh petition for regular bail and the learned trial Court will dispose of the bail petition in accordance with law.

With the above observations, the petition stands disposed of.

JUDGE

Comparing Assistant