

GAHC010062132023



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

Case No. : Crl.Rev.P./124/2023

MD. AJIBUR RAHMAN @ MD. AJIBAR RAHMAN
S/O MD. KALACHAN ALI
VILL- SALIMPUR
P.O. PAHUMARA, P.S. BAGHBOR,
DIST. BARPETA, ASSAM
PIN-781308

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M J GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 23.03.2023

Heard Mr. M. J. Gogoi, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application, under Section 401 of the Code of Criminal Procedure, 1973, against the impugned orders from dated 05.01.2022 to 10.02.2022, passed by the learned Assistant Sessions Judge, Darrang, Mangaldai, in Sessions Case No. (DM-1)/2019, under Sections 366/(A)/34 of the Indian Penal Code, arising out of Charge-Sheet No. 195/2017 submitted in connection with Dalgaon P.S. Case No. 742/2016, issuing NBWA to the accused/petitioner.

It is submitted by the learned counsel for the petitioner, Mr. M. K. Gogoi, that the present petitioner was regularly appearing before the Court till 05.01.2022, but on that day itself, when his engaged counsel demanded a huge amount of money towards fees, he could not provide fees and therefore, the engaged counsel withdrawn his *vakalatnama* filed on behalf of the present accused/petitioner. Thereafter, the petitioner could not appear before the I.O. as he was not aware about the date fixed by the Court as he was unaware of the fact that his engaged counsel has already withdrawn the *vakalatnama*. The petitioner came to know about the issuance of NBWA only from his bailor when the bailor received the notice and informed him accordingly. The petitioner was regularly appearing before the Court, but due to the above stated circumstances, he could not appear before the Court, but he is ready to face the trial and will regularly appear before the Court if the order of issuance of warrant is being suspended.

In this context, the learned Additional Public Prosecutor, Mr. P. Borthakur, has submitted that as per the order annexed by the petitioner, it seems that the

petitioner was regularly appearing before the Court till 05.01.2022 and hence, considering the conduct of the petitioner, he may be directed to appear before the Court with a prayer for regular bail.

Considering the submissions made by the learned counsels for both sides and also considering the conduct of the accused/petitioner, who was regularly appearing before the Court till withdrawal of *vakalatnama* by his engaged counsel, I hereby direct the petitioner to appear before the Court of learned Assistant Sessions Judge, Darrang, Mangaldai, within 10 (ten) days from today and to file a fresh petition for regular bail and upon filing of such petition, the learned Court below shall consider and dispose of the same in accordance with law. And, till then, the execution of NBWA, issued against the petitioner, stands stayed/ suspended.

With the above observation and direction, this criminal revision petition stands disposed of.

JUDGE

Comparing Assistant