

GAHC010063992023



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

Case No. : Crl.Pet./293/2023

LALMONI BEWA
W/O LATE SAIDUL HAQUE
R/ VILL- MALPARA
P.S. MALHATI
DIST. BIRBHUM, W.B.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR T THAKURIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

28.03.2023

Heard Mr. T. Thakuria, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 482 Cr.P.C., the petitioner has prayed for quashing of the impugned order, dated 25.01.2021 and subsequent orders passed in NDPS Case No. 46/2017 (Guwahati GRPS Case No.68/2017) by the learned District & Sessions Judge, Kamrup(M), Guwahati whereby NBWA has been issued against her.

Mr. T. Thakuria, learned counsel for the petitioner, submits that after filing of charge-sheet in the case the accused petitioner had been regularly appearing before the learned Court below. But, Mr. Thakuria submits, due to the outbreak of Covic-19 from March 2020 to 2021, the petitioner could not appear before the learned trial Court and she lost contact with her engaged counsel, for which NBWA was issued against her vide order, dated 25.01.2021. Mr. Thakuria submits that thereafter, the accused petitioner was arrested in connection with Berhampore P.S. Case No. 189/2020 and from 22.02.2020 till the date of judgment on 31.08.2022 passed in NDPS Case No. 42/2020 by the learned Special Judge (NDPS Act), Berhampore, Murshidabad, West Bengal she was in judicial custody. Mr. Thakuria submits that due to unavoidable circumstances the accused petitioner could not appear before the learned trial Court. Therefore, Mr. Thakuria submits that an opportunity may be given to the petitioner to appear before the learned Court below and till her appearance, the execution of the NBWA issued against her may be directed to be kept in abeyance.

Mr. B. Sarma, learned Additional Public Prosecutor, submits that in the backdrop of facts stated above, the petitioner may be directed to appear before the learned Court below on a specified date, subject to conditions.

Be it mentioned here that within the ambit and scope of the power vested on this Court, under Section 482 Cr.P.C., the NBWA issued by the learned Court below cannot be recalled. However, having considered the above submissions

made by the learned counsel for both sides and consideration of the averments made in the petition supported by documents annexed thereto, it is provided that the petitioner shall appear before the Court of learned District & Sessions Judge, Kamrup(M), Guwahati within a period of **10(ten) days** from today and till her appearance, the execution of the NBWA issued against her shall be kept in abeyance subject to the condition that she will continue to appear before the learned Court below till the trial of the case is completed.

With the above direction, the petition stands disposed of.

JUDGE

Comparing Assistant