

GAHC010064752023



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

Case No. : Crl.Rev.P./130/2023

GOLAM OSMANI
S/O LATE KAZIM UDDIN
R/O VILL- KARAGARI NC,
P.S. SARTHEBARI
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD I H LASKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 24-03-2023

Heard Mr. I.H. Laskar, learned counsel for the petitioner.

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

By this application under section 401/482 of the Cr.P.C the petitioner

prayed for setting aside order dated 11.05.2022 and all the subsequent orders for issuance of Non-bailable Warrant of Arrest (NBWA) against the petitioner, passed by the learned Additional Sessions Cum Special Judge (POCSO), Barpeta, in Special POCSO Case No. 52/2020, arising out of the Kachumara Police Station Case No. 146/2019 registered under Sections 120(B)/366 of the IPC read with Section 4 of the POCSO Act, 2012.

It is submitted by the learned counsel for the petitioner that he was initially arrested in connection with the aforementioned case and after releasing him on bail, he appeared before the learned Court below and on 03.03.2021 the charge was framed against him. However, since 14.06.2021, the case was fixed for evidence. However, due to some covid restrictions accused could not be appeared for 2/3 dates and thereafter since 20.11.2021, he remain absent with steps and on 17.02.2022, he was present before the learned Court below. But on 30.03.2022, he could not be able to appear before the learned Court below and remain absent with steps.

Thereafter, on 11.05.2022, the petitioner was absent without steps on which date, the learned Special Judge POCSO issued NBWA against him and also on the subsequent dates. After obtaining bail, he was appearing before the Court regularly. However, due to some covid restrictions he could not appeared on 2/3 dates, and on considering his absence, on 11.05.2022, the warrant of arrest was issued against him.

Further it is submitted by the learned counsel for the petitioner that the petitioner is ready to face the trial and accordingly, prayed for suspension of the operation of the NBWA and subsequent orders thereto issued against him, so that he can appear before the learned Court below and face the trial.

In this context, the learned APP has submitted that considering the conduct

of the accused petitioner his prayer may be allowed with a direction to appear before the learned Court below with a fresh bail petition.

After hearing the submission made by the learned counsel for both sides and also considering the conduct of the accused petitioner, I find it proper to set aside the order dated 11.05.2022 and all the subsequent orders for issuance of Non-bailable Warrant of Arrest (NBWA) against the petitioner, passed by the learned Additional Sessions Cum Special Judge (POCSO), Barpeta, in Special POCSO Case No. 52/2020, arising out of the Kachumara Police Station Case No. 146/2019 registered under Sections 120(B)/366 of the IPC read with Section 4 of the POCSO Act, 2012.

with a direction to the petitioner to appear before the learned Additional Sessions Cum Special Judge (POCSO), Barpeta on or before 04.04.2023 and file a fresh application seeking bail and the learned Court below will consider the matter in accordance with law.

With observations made above, the petition stands disposed of.

JUDGE

Comparing Assistant