

GAHC010073052023



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

Case No. : Crl.Pet./326/2023

AHADUL MIYA AND ANR
S/O MAYNAL MIYA
R/O KALATALI, P.O. BOHRI
P.S. TARABARI
DIST. BARPETA, ASSAM

2: AMPIYA KHATUN @ AMBIA KHATUN
D/O ABDUL KARIM
W/O AHADUL MIYA
R/O GARAIMARI
P.S. BOKO
DIST. KAMRUP
ASSA

VERSUS

THE UNION OF INDIA
REP. BY THE NARCOTICS CONTROL BUREAU (NCB), GUWAHATI.

Advocate for the Petitioner : MR. U K BARMAN

Advocate for the Respondent : SC, NCB

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

04.04.2023

Heard Mr. U.K. Barman, learned counsel for the petitioners. Also heard Mr.

S.C. Keyal, learned Standing Counsel, NCB.

By this petition under Section 482 Cr.P.C., the petitioners have prayed for quashing of the impugned order, dated 29.03.2022, passed by the learned Addl. Sessions Judge No. 1, Kamrup(M) at Guwahati in NDPS Case No. 52/2018 arising out of NCB Crime No. 05/2018 whereby NBWA was issued against the petitioners.

Mr. U.K. Barman, learned counsel for the petitioners, submits that earlier the petitioners were enlarged on bail by the learned trial Court and they had been regularly appearing before the learned trial Court on all dates. But, Mr. Barman submits, that on 29.03.2022, the petitioners failed to appear before the learned Court below for which NBWA were issued against them. Mr. Barman submits that the petitioners are husband and wife and during the aforesaid period the petitioner No. 2 conceived and some complications arose in her pregnancy for which she had to take regular and proper medical attention. Mr. Barman also submits that non-appearance of the petitioners before the learned trial Court was unintentional and now they want to participate in trial. Therefore, Mr. Barman submits that an opportunity may be given to the petitioners to appear before the learned Court below and till their appearance, the execution of the NBWA issued against them 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 petitioners 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 the sides and consideration of the averments made in the petition supported by the documents annexed thereto, it is provided that the petitioners shall appear before the Court of learned Addl. Sessions Judge No. 1, Kamrup(M) at Guwahati/Special Judge (NDPS Act), Kamrup(M) at Guwahati within a period of **10(ten) days** from today and till their appearance, the execution of the NBWA issued against them shall be kept in abeyance subject to the condition that they will continue to appear before the learned trial Court till the trial of the case is completed.

The accused petitioners are at liberty to file regular bail application before the learned Court below and if such bail application is filed, the same shall be considered and disposed of in accordance with law.

With the above directions, the petition stands disposed of.

JUDGE

Comparing Assistant