

GAHC010094272023



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

Case No. : Crl.Pet./407/2023

DHARANI KANTA DAS @ DHARANI DAS
S/O BIRESWAR DS
R/O VILL- BHALUKMARI, P.O. HARALTARI, P.S. SAPATGRAM
DIST. DHUBRI, ASSAM
PIN-783337.

VERSUS

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

2:SRI BHUBAN KALITA
S/O LATE NRIPEN KALITA
R/O BHALUKMARI

P.O. HARALTARI

P.S. SAPATGRAM
DIST. DHUBRI
ASSAM

PIN-78333

Advocate for the Petitioner : MR. M A MONDAL

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

09-05-2023

Heard Mr. M.A. Mondal, learned counsel for the petitioner. Also heard Ms. S.H. Borah, learned Addl. Public Prosecutor, Assam.

2. This Criminal petition is filed by the petitioner challenging the impugned order dated 30.10.2021 passed by the Court of learned Sub-Divisional Judicial Magistrate (M), Bilasipara in PRC Case No.81/2021, whereby warrant of arrest has been issued against the petitioner due to non-appearance in connection with PRC Case No.81/2021 presently pending before the Court of SDJM(M), Bilasipara.

3. Learned counsel for the petitioner submits that the petitioner is a businessman and stays out of his residence to earn his livelihood. Learned counsel for the petitioner submits that because of communication gap with his engaged counsel, the petitioner was not aware of the orders passed by the Court of learned SDJM(M), Bilasipara that he is required to appear before the learned SDJM(M), Bilasipara. Subsequently, the petitioner was informed by his counsel about the last order passed by the Court of SDJM(M), Bilasipara on 03.01.2023, whereby fresh warrant of arrest has been issued against the accused, namely, the petitioner herein. The next date is fixed on 18.05.2023.

4. Learned counsel for the petitioner submits that he is duty bound to appear before the Court and he will follow all the directions of the learned SDJM (M), Bilasipara. But for the reasons mentioned in the pleadings and as submitted by the learned counsel for the petitioner that the petitioner could not appear before the court after issuance of summons because the petitioner was absent from his residence as he has to move from place to place on account of earning his livelihood, he failed to appear before the Court as directed. It is submitted by the learned counsel for the petitioner that the petitioner will positively appear before the SDJM(M), Bilasipara on 18.05.2023 and therefore, prays that warrant of arrest be interfered with and set aside.

5. Learned Additional Public Prosecutor submits that the matter is pending since 2021 for summons and the petitioner has failed to comply with the directions issued by the Court of SDJM(M), Bilasipara vide several orders. Therefore, the prayers in the criminal petition be rejected.

6. Having heard the learned counsels for the parties and upon perusal of the pleadings on records, this Court is of the view that the ends of justice will be met, if the criminal petition is disposed of by directing the petitioner to appear before the Court of learned SDJM(M), Bilasipara on 18.05.2023 without any fail. If the petitioner appears before the court as directed by the last order dated

03.01.2023, the warrant of arrest issued by the SDJM(M), Bilasipara shall be recalled. However, in the event, if the petitioner fails to appear before the SDJM(M), Bilasipara, the SDJM(M), Bilasipara will be at liberty to execute the warrant issued.

7. In terms of the above observations and directions, the criminal petition stands disposed of.

JUDGE

Comparing Assistant