

GAHC010112512023



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

Case No. : Crl.Pet./507/2023

BISWAJIT KALITA
S/O SIDDHESWAR KALITA
R/O VILL- BILPAR DAKHIN NIMUWA, P.S. PATACARKUCHI, IN THE
DISTRICT OF BARPETA, ASSAM, PIN-781315

VERSUS

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

2:SRI HIMANGSHU LAHKAR
S/O LATE BHUPEN LAHKAR
R/O NITYANANDA PANBARI
P.S. PATACHARKUCHI
DIST. BARPETA
ASSAM
PIN-78560

Advocate for the Petitioner : MR. M KALITA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

29-05-2023

Heard Mr. M. Kalita, learned counsel for the petitioner. Also heard Ms. S.H.

Borah, learned Additional Public Prosecutor, Assam.

This Criminal Petition is filed by the petitioner praying for interfering and setting aside the P&A along with the warrant of arrest which was issued by the Court of Chief Judicial Magistrate (CJM), Bajali, Pathsala by the order dated 27.04.2023 in PRC Case No.265/2022 registered under Sections 120(B)/306/34 of the IPC.

Learned counsel for the petitioner submits that an FIR dated 04.09.2021 was lodged by the informant one Sri Himangshu Lahkar alleging that the petitioner, who is named as accused no.1 in the FIR, along with other persons named in the FIR, took sweets from his brother's sweet shop. However, the petitioner did not make the payment of the said sweets purchased by him. That apart, the said accused persons took his deceased brother's Pan Card, Voter ID, Shop Trade License etc., and took cash from his late brother under the false pretext of the sanctioning a loan from a Bank. As the said payments were not made, the brother of the informant was passing through serious mental stress and as a result, he committed suicide on 03.09.2021 by hanging himself with a rope at his own poultry farm. It is alleged in the FIR that the brother of the informant committed suicide because of the deception caused by the accused persons mentioned in the FIR including the petitioner herein.

Pursuant to the investigation the charge-sheet being C.S. No.123/2022 was filed on 30.06.2022. The petitioner was shown as an absconder in the said charge-sheet.

Learned counsel for the petitioner submits that the petitioner is not connected with the alleged offence and the charges have been wrongly framed against the petitioner. In fact, at the time the alleged incident occurred, the petitioner was in Pune in search of a job and on 25.08.2021 he had joined as a

Security Guard vide ID No.26205122 in a private enterprise, namely, ALM Enterprises in Pune. Accordingly, learned counsel for the petitioner submits that therefore, the petitioner had no knowledge about the FIR dated 04.09.2021 lodged by the informant/the respondent no.2 against the petitioner and others and as a consequence thereof he was shown to be an absconder in the charge-sheet. The petitioner has been now informed that the Court of CJM, Bajali, Pathsala by the order dated 27.04.2023 has issued a P&A and warrant of arrest against the petitioner. The petitioner being aggrieved has approached this Court praying for setting aside of the said impugned order dated 27.04.2023.

Having heard the learned counsels for the parties and upon perusal of the pleadings, this Court is of the view that this Criminal petition can be closed at this stage directing the petitioner to appear before the Court of CJM, Bajali, Pathsala, in connection with PRC Case No. 265/2022 under Sections 120(B)/306/34 of the IPC. The petitioner shall appear on 03.06.2023 before the CJM, Bajali, Pathsala which is the next date for appearance fixed by the said Court by its order dated 27.04.2023. In terms of the direction of this Court, if the petitioner appears before the Court on 03.06.2023 then the warrant of arrest issued by the CJM, Bajali, Pathsala will be recalled.

In terms of the above directions, the Criminal Petition stands closed and disposed of.

The petitioner shall be at liberty to file necessary application for seeking bail before the Court of CJM, Bajali, Pathsala.

JUDGE

Comparing Assistant