

GAHC010129682023



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

Case No. : Crl.Pet./567/2023

KANCHAN BIBI @ KANCHAN NESSA
W/O JAMAL SK.
R/O VILL- BIDYAPARA
P.S. KRISHNAI
DIST. GOALPARA, ASSAM

VERSUS

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

2:MOFAZZAL HOQUE
S/O LATE ABDUL KADER
R/O VILL- CHATPAA
P.S. JOGIGHOPA
DIST. BONGAIGAON
ASSA

Advocate for the Petitioner : MR F HAQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

16-06-2023

Heard Mr. F. Haque, learned counsel for the petitioner. Also heard Ms. S.H.

Borah, learned Additional Public Prosecutor, Assam.

This Criminal petition has been filed by the petitioners praying for quashing of the impugned order dated 30.05.2023 passed in PRC No.1130/2019 (C.R. No.93/2019 dated 24.03.2019) registered under Sections 304(B)/34 of the IPC by the Court of Chief Judicial Magistrate (CJM), Goalpara, whereby the NBWA was issued against the petitioner.

It is submitted that the petitioner was shown as an absconder in the charge sheet being C.R. No.93/2019 dated 24.03.2019 which ought not to have done as the petitioner is a local person and was available in her residence. But the police never issued any notice requiring her to appear before the Investigating Officer in connection with the concerned case. It is submitted that the petitioner is a lady, aged about 57 years and she is a resident of Krishnai in the district of Goalpara. Accordingly, she is committed to appear before the Trial Court on each and every date as fixed by the concerned Court. Learned counsel for the petitioner submits that because of the illness of the petitioner, she could not appear before the Court on 30.05.2023. However, the Court rejected the prayer on the ground that no medical document was submitted before the Court to prove her statement and accordingly, the NBWA was issued against the petitioner. It is submitted that the next date fixed in the matter is 21.06.2023 for appearance.

Learned Additional Public Prosecutor submits that the petitioner be directed to appear before the Court of CJM, Goalpara on the next date fixed i.e. 21.06.2023.

Having heard the learned counsel for the parties and upon perusal of the pleadings, this Court is of the view that the criminal petition can be disposed of at this stage with a direction to the petitioner to appear before the CJM,

Goalpara in connection with PRC No.1130/2019 (C.R. No.93/2019 dated 24.03.2019) registered under Sections 304(B)/34 of the IPC on the next date fixed i.e. 21.06.2023 without fail. If the petitioner as directed by this Court appears before the competent Court on the next date fixed and file an appropriate application for bail, the competent Court will consider the said application and pass appropriate order as per law.

Accordingly, until 21.06.2023, the order dated 30.05.2023 passed by the Court of Chief Judicial Magistrate (CJM), Goalpara in PRC No.1130/2019 (C.R. No.93/2019 dated 24.03.2019) registered under Sections 304(B)/34 shall remain stayed. If the petitioner appears before the Court on 21.06.2023, the impugned order dated 30.05.2023 shall be recalled.

The Criminal Petition stands allowed and disposed of with the above terms and directions.

JUDGE

Comparing Assistant