

GAHC010148982023



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

Case No. : Crl.Pet./684/2023

CHANDAN BORAH
S/O- SRI LAKHI BORAH,
PO- DIFALUSATRA,
P.S.- GOHPUR, DISTRICT- BISWANATH,
ASSAM, PIN- 784169.

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM.

2:THE ADDL. S.P.
BI(EO)
ASSAM
O/O- THE DIRECTOR
BI(EO)
ASSAM

SRIMANTAPUR
BHANGAGARH

GUWAHATI (INFORMANT)

Advocate for the Petitioner : MR H GUPTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 04-07-2023

Heard Mr. T.T Tara, learned counsel for the petitioner and Mr. K.K. Parashar , learned Addl. P.P. for the State of Assam.

2. This criminal petition is filed by the petitioner praying for setting aside the Charge Sheet filed by the Investigating Officer in connection with BI(EO) P.S. Case No. 19/2020 u/s 120B/406/420 IPC read with Sections 4, 5 & 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 read with Section 5 of the Assam Protection of Interest of Depositors Act, 2013.

3. The matter is presently pending before the Court of SDJM No.1, Kamrup (M) as PRC Case No. 3097/2022. It is further submitted that the petitioner who was working as a Branch Development Manager of Response Real Estate & Construction Pvt. Ltd. has tendered his resignation on 31.07.2013 as is reflected in page 18 Annexure-2.

4. The learned counsel for the petitioner submits that notwithstanding his resignation from the Company, the IO has filed the charge-sheet whereby he is also shown as one of the accused-persons. That apart the competent Court before whom the matter is pending has issued an NBWA dated 30.01.2023 against the petitioner as the petitioner failed to appear before the competent Court.

5. Mr. K.K. Parashar, learned Addl. PP submits that the matter is at the stage of appearance and the petitioner be directed to appear before the competent Court.

6. Having heard the learned counsel for the parties, this Court is of the view that the petition can be disposed of with a liberty granted to the petitioner to appear before the competent Court on the next date fixed which is 13.07.2023 and thereafter file necessary application, if so advised before the competent Court. If the petitioner appears before the Court of SDJM No. 1, Kamrup (M) on the next date fixed as directed then the NBWA issued on 30.01.2023 shall be recalled. Till 13.07.2023 the NBWA dated 31.01.2023 shall not be enforced. Upon the petitioner appearing before the competent Court and filing the necessary application as may be advised, the competent Court shall decide the application on its own

merit taking note of the judgment rendered by the Apex Court laid down ***in Siddharth Vs State of Uttar Pradesh and Anr.***, reported in ***(2022) 1 SCC 676*** and judgment dated 20.03.2023 rendered in ***Mahdoo Bava V. Ventral Bureau of Investigation*** in Criminal Appeal No. of 2023 (Arising out of SLP (Crl) No. 376 of 2023), as it is no longer *res integra* that appearance of the accused persons pursuant to summons being issued do not necessarily in all cases require orders directing the accused to be taken into custody as a matter of course. When the law has already been laid down by the Apex Court, no further orders are necessary to be passed by this Court.

7. The competent Court will pass appropriate orders taking note of the law laid down by the Apex Court. Since this petition has been disposed of on the limited issue of the NBWA issued against the petitioner any further issues which the petitioner seeks to address the Court at the relevant point of time would remain available to the petitioner.

8. The petition is accordingly disposed of.

JUDGE

Comparing Assistant