

GAHC010170392023



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

Case No. : Crl.Pet./815/2023

KARTICK GHOSH
S/O KRISHNA GOSH
R/O VILL- RAMKRISHNA NAGAR NO. 1, SILIGURI (M. CORP), PRADHAN
NAGAR, DARJEELING, WEST BENGAL, PIN734003.

VERSUS

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

2:NALANI KANTA RABHA
S/O LATE BUJENG RABHA
R/O BAIDA
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PIN-78312

Advocate for the Petitioner : MR. M ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

10.08.2023

Heard Mr. M. Ali, learned counsel for the petitioner. Also heard Mr. D.P.

Goswami, learned Additional Public Prosecutor, Assam appearing for the State respondent No. 1.

By this petition under Section 482 Cr.P.C., the petitioner has prayed for quashing the impugned order, dated 24.05.2018 and the subsequent orders, passed by the learned Judicial Magistrate, 1st Class, Kamrup (M), Guwahati, whereby NBWA and P&A have been issued against him in connection with G.R. No. 8080/2013 under Sections 279/353/365/511 of the IPC.

Mr. M. Ali, learned counsel for the petitioner, submits that on 26.02.2018, the petitioner appeared before the learned trial Court and prayed for allowing him to remain on previous bail which was allowed by the Court. Thereafter, on 05.04.2018, due to illness of his mother he filed an adjournment petition which was also allowed. However, Mr. Ali submits that on 24.05.2018, when the case was fixed before the Court, the petitioner was in Kanataka working as a driver and as his employer did not allow him to come to Assam, he failed to appear before the learned Court below, for which, NBWA was issued against him and subsequently, P&A was also issued against him. Mr. Ali submits that non-appearance of the petitioner before the learned Court below was completely unintentional and as he is ready to participate in the trial, an opportunity may be given to the petitioner to appear before the learned Court below and till his appearance, the execution of the NBWA and P&A issued against him may be directed to be kept in abeyance.

Mr. D.P. Goswami, learned Additional Public Prosecutor, submits that in the backdrop of facts stated above, the petitioner 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 and P&A 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 petitioner shall appear before the Court of learned Judicial Magistrate, 1st Class, Kamrup (M), Guwahati **on or before 29.08.2023** and till his appearance, the execution of the NBWA and P&A issued against him shall be kept in abeyance subject to the condition that if he fails to appear before the learned Court below within the specified period, **on and from 30.08.2023**, this order shall have no force.

With the above direction, the petition stands disposed of.

JUDGE

Comparing Assistant