

GAHC010172222023



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

Case No. : Crl.Pet./807/2023

KAMRUL HASSAN AHMED
S/O HANIF UDDIN AHMED
R/O VILL- KALGASIA
P.O. AND P.S. KALGASIA
DIST. BARPETA, ASSAM
PIN- 781319

VERSUS

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

2:AKSHED ALI
S/O ABDUR RAHMAN
R/O AT SIJUBARI

NEAR SIJUBARI MASZID

P.O. AND P.S. HATIGAON

DIST. KAMRUP (M)
ASSAM
PIN-78103

Advocate for the Petitioner : MR K BHUYAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

Date : 09.08.2023

Heard Mr. K. Bhuyan, learned counsel for the petitioner and also heard Mr. D.P.Goswami, learned Additional Public Prosecutor for State respondent.

By this Criminal petition under section 482 Cr.P.C. the petitioner is praying for recalling the impugned order of N.B.W.A. dated 23.06.2023, issued against him in connection with C.R. Case No. 3457/2021 by the learned JMFC, Kamrup (M), Guwahati.

It is submitted by the learned counsel for the petitioner that a complaint has been lodged against the present petitioner under section 138 of the N.I. Act, which was accordingly registered as CR Case No. 3457/2021 and after taking cognizance, summon was issued to the petitioner. On 07.09.2022, after receiving the summon, the petitioner appeared before the learned Court below and on which date, he was allowed to go on bail by the learned Court below and thereafter on subsequent dates, he was absent without steps due to unavoidable circumstances and hence N.B.W.A. was issued against the petitioner on 05.01.2023 fixing the next date on 14.03.2023 but the petitioner remained absent on that date.

The learned counsel for the petitioner further submits, thereafter, Criminal Petition No.260/2023 was filed before this Court and this Court by order, dated 29.03.2023 directed the petitioner to appear before the learned court below within 7 days by re-calling the NBWA.

It is further submitted by the learned counsel for the petitioner that as the

petitioner was seriously ill since 27.03.2023, he could not comply with the order, dated 29.03.2023 in Criminal Petition No. 260/2023 and thereafter, vide order, dated 23.06.2023, the learned court below again issued fresh NBWA against the petitioner and fixed 06.10.2023 for appearance. It is the further submission of the learned counsel for the petitioner that as he is now apprehending arrest, he may be allowed to appear before the learned Court below subject to any condition.

Mr. D.P.Goswami, learned Additional Public Prosecutor has submitted that the petitioner may be directed to appear before the learned Court below with a fresh petition for bail, which can be considered by the learned Court below in accordance with law.

Having heard the learned counsel for the parties and on perusal of the documents annexed to the application and considering the averments made in the petition, it is provided that the petitioner shall appear before the learned Court below within **07 (Seven) days** from today and till his appearance, the execution of the NBWA issued against him shall be kept in abeyance subject to the condition that if he fails to appear on or before the specified period of 7 days than, **on and from the 8th day**, this order will have no force.

The petitioner is further directed to file fresh application seeking regular bail before the learned Court below and the same may be considered by the learned Court below in accordance with law.

The criminal petition stands disposed of accordingly.

JUDGE

Comparing Assistant