

GAHC010175002023



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

Case No. : Crl.Pet./814/2023

BABUL HUSSAIN
S/O- SIRAG ALI,
FORCE NO-045132982 RANK CT/GD, UNIT 69 BWA/COMPANY 69 BN CRF
MANTRI PUKHURI, IMPHAL MANIPUR,

PERMANENT R/O KUSUMTOLI,
P.S- SAMAGURI,
DIST- NAGAON, ASSAM,

PRESENTLY RESIDING AT 81 BN CRPF, S.N PURAM, CHERLA, DIST-
BHADRUDI KUTHAGUDAM, TELENGANA

VERSUS

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

2:MURSHIDA BEGUM
W/O- BABUL HUSSAIN

D/O- MUNTAZ ALI

R/O- VILLAGE KUSUMTOLI
P.O- SIBASTHAN
P.S- SAMAGURI
DIST- NAGAON
ASSA

Advocate for the Petitioner : MR A SHARMA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

09.08.2023

Heard Mr. A. Sharma, learned counsel for the petitioner. Also heard Mr. B. Sarma, 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 11.04.2023, passed by the learned Addl. District & Sessions Judge No. 3, Nagaon in Session (T2) Case No.220/2018, whereby NBWA has been issued against the petitioner.

Mr. A. Sharma, learned counsel for the petitioner, submits that the petitioner is a defence personnel presently posted in Imphal, Manipur and despite his busy schedule he had been regularly appearing before the learned Court below. But, Mr. Sharma submits that on 11.04.2023, due to his official duty in Telengana, the petitioner could not appear before the learned Court below and although he informed his engaged counsel to file an Adjournment Petition, the same was not filed and therefore, the learned Court below issued NBWA against the petitioner. Mr. Sharma submits that as the petitioner is willing to participate in trial, an opportunity may be given to him to appear before the learned Court below and till his appearance, the execution of the NBWA issued against him may be directed to be kept in abeyance.

Mr. B. Sarma, 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 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 Addl. District & Sessions Judge No. 3, Nagaon **on or before 22.08.2023** 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 before the learned Court below within the specified period, **on and from 23.08.2023**, this order shall have no force.

With the above direction, the petition stands disposed of.

JUDGE

Comparing Assistant