

GAHC010181382023



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

Case No. : Crl.Pet./874/2023

NABADITA SARMA
D/O SRI HARI PRASAD SARMA
R/O JAPORIGOG,
NEAR SHIV MANDIR,
NARAYANPUR,
GAESHGURI, P.S. DISPUR, IN THE DIST. OF KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. T BARUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

23.08.2023

Heard Ms. A. Das, learned counsel for the petitioner and Ms. S.H. Bora, learned Addl. P.P. for the State respondent.

2. In this petition under Section 482 of the Cr.P.C. read with Section 401 of the Cr.P.C., the petitioner, Smt. Nabadita Sarma has put to challenge the correctness or otherwise of the orders dated 20.01.2020; 02.05.2020;

18.07.2020; 27.10.2020; 30.01.2021; 20.04.2021; 29.06.2021; 23.09.2021; 31.12.2021; 19.04.2022; 28.07.2022; 30.09.2022; 07.01.2023; and 06.05.2023, passed by the learned JMFC, Kamrup [M] at Guwahati in PRC Case No. 952/2019.

3. It is to be noted here that vide aforementioned orders, the learned court below has issued BWA as well as NBWA against the petitioner.

4. Ms. Das, learned counsel for the petitioner submits that on account of illness of the daughter of the petitioner she could not appear before the court and on last 4 occasions she lost communication with her counsel and on the other dates she could not appear before the court on account of outbreak of Covid-19 and consequent national lock down declared by the Government. Ms. Das further submits that she is ready to face trial and therefore, it is contended to set aside the above mentioned impugned orders dated 20.01.2020; 02.05.2020; 18.07.2020; 27.10.2020; 30.01.2021; 20.04.2021; 29.06.2021; 23.09.2021; 31.12.2021; 19.04.2022; 28.07.2022; 30.09.2022; 07.01.2023; and 06.05.2023.

5. Ms. Bora, learned Addl. P.P. submits that the petitioner may be directed to appear before the learned court below and to face the trial.

6. Having heard the submission of learned counsel for both the parties, I have gone through the petition and the documents placed on record.

7. It appears that the learned court below, at first issued summon to the petitioner and thereafter, vide order dated 20.04.2021 and 20.01.2020, has again issued BWA of Rs. 5,000/- against the petitioner and thereafter, the case was adjourned on different dates due to outbreak of Covid-19 and thereafter, vide order dated 23.09.2021, has issued BWA of Rs. 5,000/- against the petitioner and thereafter, on 31.12.2021, has issued NBWA against the

petitioner as even after her arrest and released on bail, she failed to appear before the learned court below. Thereafter, on subsequent dates also the learned court below continuously issued NBWA against the petitioner.

8. Having gone through the impugned orders enclosed with this petition, I have not seen any illegality being committed by the learned court below while issuing BWA or NBWA against the petitioner. However, since the petitioner is willing to participate in the trial and ready to appear before the learned court below, in interest of justice this court is inclined to suspend the operation of the above mentioned impugned orders, so as to enable the petitioner to appear before the learned court below and to participate in the trial.

9. Accordingly, the operation of the impugned orders dated 20.01.2020; 02.05.2020; 18.07.2020; 27.10.2020; 30.01.2021; 20.04.2021; 29.06.2021; 23.09.2021; 31.12.2021; 19.04.2022; 28.07.2022; 30.09.2022; 07.01.2023; and 06.05.2023, stands suspended and the petitioner is directed to appear before the learned court below on or before the next i.e. 01.09.2023, and to apply for regular bail and in the event of filing such an application the learned court below shall consider the same in accordance with law.

10. In terms of above, this Criminal Petition stands disposed of, at this motion stage itself.

JUDGE

Comparing Assistant