

GAHC010185372023



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

Case No. : Crl.Pet./897/2023

SHAH NEWAJ CHOUDHURY
S/O SHAHID CHOUDHURY
R/O DEBOSTHAN BAZAR,
P.S. MURAJHAR,
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
TO BE REP. BY THE LEARNED PP, ASSAM
2:MD. NEWAZ AHMED
S/O A. RAHMAN BIN SAHED
R/O HAIBARGAON, R.R.B. PATH
P.S. SADAR, DIST. NAGAON
ASSA,

Advocate for the Petitioner : MR SARFRAZ NAWAZ
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 28-08-2023

Heard Mr. S. Nawaz, learned counsel for the petitioner and also heard Ms. S. H. Bora, learned Addl. P.P. for the State respondent.

In this petition, under Section 482 Cr.P.C, the petitioner, namely, Shah Newaj Choudhury has put to challenge the order dated 20.5.2019 and all subsequent

orders passed by the learned Judicial Magistrate, First Class, Nagaon in PRC No. 2853/2013 corresponding to G.R.Case No. 2673/2012.

It is to be noted that vide impugned orders the learned Court below has issued Non-Bailable Warrant of Arrest against the petitioner.

Mr. Nawaz, learned counsel for the petitioner submits that the petitioner had filed one petition before the learned Court below on 20.4.2015, for allowing him to remain on representation of his lawyer, as the petitioner was in outside the State in connection with his avocation and thereafter, the learned Court below has directed the petitioner to produce his appointment letter. The petitioner then produce his appointment letter before the learned Court below on 17.6.2015. But, learned Court below has not passed any formal order upon the petition filed by the petitioner for allowing him to remain on representation of his engaged lawyer. The learned Court below thereafter, in all subsequent orders reflect that the petitioner is represented by his engaged council. Thereafter vide order dated 20.5.2019, the learned Court below issued non bailable warrant of arrest against the petitioner as he absent on the date fixed without step.

Mr. Nawaz learned counsel for the petitioner submits that there was miscommunication between the petitioner and his counsel and on 20.5.2019, neither his lawyer nor he himself could appear before the learned court below and he is ready to participate in the trial and therefore, it is contended to set aside the impugned order by which the learned court below has issued non-bailable warrant of arrest and PNA against him.

On the other hand, the learned Addl. P.P., Ms. Bora submits that the petitioner may be directed to appear before the learned Court below and to participate in the trial.

Having heard the submission of learned Advocates for both sides, and I have

gone through the petition and the documents placed on record and also the facts and circumstances of the record, this petition stands disposed of at this motion stage itself by directing the petitioner to appear before the learned Court below on the next date and to apply for regular bail or to remain on previous bail, and in the event of filing such an application, the learned Court shall consider the same in accordance with law.

Till then, the impugned orders dated 20.5.2019, 3.7.2019, 1.8.2019, 30.10.2019, 30.1.2020, 7.12.2020, 24.3.2021 13.9.2021, 29.11.2021, 26.10.2022, 2.1.2023, 21.2.2023, 11.4.2023, 23.5.2023 and 3.7.2023 shall remain suspended.

JUDGE

Comparing Assistant