

GAHC010189182023



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

Case No. : Crl.Pet./899/2023

IKRAMUL HUSSEN
S/O ABDUL HAMID R/O VILL. PASCHIM BHERVERI P.O. AND P.S
BATADRAVA DIST. NAGAON ASSAM PIN 782122

VERSUS

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

2:GAUTAM KUMAR
S/O LT. SUBHAN KUMAR SUB INSPECTOR OF POLICE AT RAHA P.S
P.S RAHA DIST. NAGAON ASSAM PIN 78210

Advocate for the Petitioner : ALHAJJ I UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

28.08.2023

Heard Mr. A.I. Uddin, learned counsel for the petitioner. Also heard Ms. S.H. Bora, learned Additional Public Prosecutor for the State respondent.

In this petition under Section 482 of the Cr.P.C. the petitioner-Md. Ikramul

Hussain has put to challenge the order dated 02.09.2019, passed by the learned Additional Sessions Judge No. 1, Nagaon in Nagaon Sessions (T-2) Case No. 321/2016 corresponding to GR Case No. 5956/2016, arising out of Raha Police Station Case No. 295/2016, under Section 399/400 IPC.

It is to be noted herein that vide impugned order dated 02.09.2019, the learned Court below has issued non-bailable warrant of arrest against the petitioner as the petitioner remained absent on 02.09.2019 without any steps.

Mr. Uddin, learned counsel for the petitioner submits that due to some miscommunication, the petitioner could not appear before the Court below on date fixed and now he is ready to appear before the learned Court below and participate in the trial and therefore, it is contended to give a chance to the petitioner to appear before the learned Court below.

Ms. S.H. Bora, learned Additional Public Prosecutor for the State respondent also submits that the petitioner may be directed to appear before the learned Court below on 29.09.2023.

Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also the impugned order dated 02.09.2019 which reads as under:-

"02-09-2019

Accused Anwar Hussain is present. Accused Jiarul, Gulzar and Abdul Wahid are also present

Accused Ikramul Hussain is absent without any steps. Seen the petition filed by his engaged Advocate. It is stated that the said accused gone to Saudi Arabia.

Hence issue W/A against the Ikramul

Fixed 03-10-2019 for appearance”

It appears from the order that though the petitioner remained absent on 02.09.2019, before the learned Court below, yet, his engaged counsel had filed a petition stating that the petitioner has gone to Saudi Arabia. But, without considering the petition, the learned Court below has issued non-bailable warrant of arrest against the petitioner.

Having considered the submissions of learned Advocates of both sides and also considering the facts and circumstances on the record, this Court is inclined to dispose of this petition at the motion stage itself by directing the petitioner to appear before the learned Court below on 29.09.2023, and till then the non-bailable warrant of arrest issued against the petitioner stands stayed.

JUDGE

Comparing Assistant