

GAHC010190752023



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

Case No. : Crl.Pet./915/2023

MRINMOY SARMA @ MONNA AND 2 ORS.
S/O LT. GARPESH SARMA
VILL- KATLICHERRA CHOWRANGEE,P.S. KATLICHERRA,
DIST. HAILAKANDI, ASSAM

2: MOLOY SHARMA
S/O LATE MON MOHAN SARMA
VILL- RANGABAK PT. I
P.S.KATLICHERRA
DIST. HAILAKANDI
ASSA

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

2:DIPON ROY
S/O LATE ADHIR ROY
VILL- RANGABAK PT.I
P.S. KATLICHERRA
DIST. HAILAKANDI
ASSA

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

31.08.2023

Heard Mr. A.M. Barbhuiya, learned counsel for the petitioners and Ms. S.H. Bora, learned Addl. P.P. for the State respondent.

2. In this application, under Section 482 of the Cr.P.C. read with Article 227 of the Constitution of India, the petitioners namely, **Mrinmoy Sarma @ Monna; Dipon Roy;** and **Moloy Sharma** have put to challenge the order dated 19.05.2022, passed by the learned Addl. CJM, Hailakandi, in GR Case No. 869/2016, whereby the learned court below has directed to issue Non-Bailable Warrant of Arrest [NBWA] against the petitioners, modifying its earlier order dated 26.07.2021, by which notice was issued to them.

3. Mr. Barbhuiya, learned counsel for the petitioners submits that after submission of the charge sheet, in respect of Katlicherra PS Case No. 102/2016, the learned court below took cognizance of the offence under Sections 143/326/307 of the IPC, against the present petitioners and directed to issue summon to them vide order dated 26.07.2021, and subsequently, vide order dated 19.05.2022, the learned court below has modified its order dated 26.07.2021, and directed to issue NBWA against them. Mr. Barbhuiya further submits that the learned court below, at the first instance, has directed to issue summon to the petitioners, but without justifiable reason the learned court below has modified its earlier order and directed to issue NBWA against the present petitioners and that there was outbreak of Covid-19 Pandemic at the relevant point of time and as such, the impugned order failed to stand the legal scrutiny. Mr. Barbhuiya also submits that the petitioners are ready to participate in the trial and they will appear before the learned court below on the next date

fixed and therefore, it is contended to allow the petition.

4. On the other hand, Ms. Bora, learned Addl. P.P. submits that petitioners may be directed to appear before the learned court below on the next date fixed.

5. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record and also perused the impugned order dated 19.05.2022.

6. It appears that vide order dated 19.05.2022, the learned court below has directed to issue NBWA against the present petitioners, by modifying its earlier order dated 26.07.2021. Apparently, I have not find any illegality in the impugned order dated 19.05.2022, as it appears from the record that at the first instance the learned court below has issued summon to the petitioners, though they have been shown absconder in the charge sheet and summon was duly served upon them, and despite service of summon upon them, they failed to appear to appear before the learned court below. However, it is not in dispute that at the relevant point of time, there was outbreak of Covid-19 pandemic and the court work was suspended for a considerable period.

7. Taking note of all the facts and circumstances this Court is inclined to dispose of this petition, at this motion stage itself, by directing the petitioners to appear before the learned court below on the next date fixed i.e. 26.09.2023, 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.

8. Till then the NBWA issued against the petitioners, stands stayed.

JUDGE

Comparing Assistant