

GAHC010196062023



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

Case No. : Crl.Pet./938/2023

MONESWAR LAMU
S/O LATE DAMBARU LAMU
R/O SIMALUDUNGA GAON,
P.S. DHAKUAKHANA
DIST. NORTH LAKHIMPUR, ASSAM
PIN-787055

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR A GOHAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

11.09.2023

Heard Mr. N.N.B. Choudhury, learned counsel for the petitioner and also Mr. K.K. Parasar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. In this petition under Section 482 Cr.P.C., the petitioner, namely, Moneswar Lamu has put to challenge the correctness or otherwise of the order dated 09.08.2023, passed by the learned Judicial Magistrate First Class, Lakhimpur, North Lakhimpur, in G.R. Case No.3177/2016, and also for recalling the non-bailable warrant of arrest issued against the petitioner. It is to be noted here that vide order dated 09.08.2023, the learned Court below has declared the petitioner as proclaimed offender and directed to keep the warrant of arrest pending in the police station for further attempt to arrest the petitioner.

3. Mr. Choudhury, learned counsel for the petitioner submits that the petitioner was charge-sheeted showing as absconder in the charge-sheet, in North Lakhimpur P.S. Case No.1256/2016, to stand trial in the Court under Section 120(B)/363/511 IPC. Mr. Choudhury further submits that all the offences, under which the petitioner has been charge-sheeted, are bailable offence and that the summon was never served upon him and without service of summon, the learned Court below has issued non-bailable warrant of arrest against the petitioner and thereafter, vide order dated 09.08.2023, declared him as proclaimed offender as the non-bailable warrant of arrest issued against him could not be executed. Mr. Choudhury further submits that the petitioner relocated himself to a place of East Siang District, Arunachal Pradesh in the year 2018 in connection with his avocation and thereafter he lost connection with his family members at North Lakhimpur and that he is ready to face trial and therefore, it is contended to allow the petition.

4. On the other hand, Mr. K.K. Parasar, learned Additional Public Prosecutor also fairly submits that the summon could not be served upon the petitioner and without service of which non-bailable warrant of arrest was issued against him and subsequently, he was declared as proclaimed offender.

5. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the impugned order dated 09.08.2023.

6. It appears from the order dated 09.08.2023, that the petitioner was declared as proclaimed offender after receiving the report on the warrant of arrest and proclamation

issued against him, wherein it is stated that the petitioner could not be traced out in the addressed furnished and no movable or immovable property was found in the name of the petitioner. Apparently no infirmity or illegality seems to have been committed by the learned Court below. But, the offences against the petitioner appears to be not serious which are bailable offence. Moreover, he is ready to participate in the trial.

7. Having considered above and also considering the submission of learned Advocates of both sides and also considering the nature and gravity of the offence and further considering the fact that the petitioner undertakes to appear before the learned Court below on each and every date and to participate in the trial, this Court is inclined to allow this petition by setting aside the impugned order dated 09.08.2023. Accordingly, the petitioner is directed to appear before the learned Court below on 10.11.2023, and on his appearance and on filing a petition for granting him bail, the learned Court below shall consider the same in accordance with law. The non-bailable warrant of arrest issued against the petitioner stands stayed till then.

8. In terms of above, this criminal petition stands disposed of at this motion stage itself.

Sd/- Robin Phukan
JUDGE

Comparing Assistant