

GAHC010201462023



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

Case No. : Crl.Pet./956/2023

DEBASISH SINGHA
S/O LATE K NANDA KISHOR SINGHA
R/O VILL- SAINT KETHERINE,
P.O. SAINT KETHERINE,
P.S. KACHU DARAM
DIST. CACHAR, ASSAM
PIN NO. -788099

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. M R DEVI
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

13.09.2023

Heard Ms. M.R. Devi, learned counsel for the petitioner and Mr. P. Borthakur, learned Addl. P.P. for the State respondent.

2. In this petition, under Section 482 of the Cr.P.C., the petitioner, namely, **Debasish Singha**, has put to challenge the orders dated 04.04.2018 – 29.05.2023, passed by the learned Addl. CJM, Kamrup [M] at Guwahati, in GR Case

No. 103/2015, in connection with Dispur PS Case no. 28/2015.

3. It is to be noted here that vide orders dated 04.04.2018 – 29.05.2023, the learned court below has issued NBWA against the petitioner on account of his absence, without any step, before the learned court below.

4. Ms. Devi, learned counsel for the petitioner submits that the petitioner was working as security guard at Bangalore and there he lost his mobile phone and therefore, he could not contact/communicate with his engaged counsel and his engaged counsel therefore, could not appear before the court, for which the learned court below has issued NBWA against the petitioner. Mr. Devi further submits that in the year 2019, there was outbreak of Covid-19 and on account of the same the court work was suspended for a considerable period of time and that the petitioner could not appear before the learned court below, on account of this pandemic also and now he is ready to face the trial and he will appear before the learned court below on each and every date and therefore, it is contended to allow this petition, by setting aside the impugned orders dated 04.04.2018 – 29.05.2023, passed by the learned Addl. CJM, Kamrup [M] at Guwahati, in GR Case No. 103/2015.

5. Whereas, Mr. Borthakur, learned Addl. P.P. also submits that if the petitioner is willing to participate in the trial and undertakes to appear before the learned court below each and every date, then he may be permitted to appear before the learned court below.

6. 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 04.04.2018 – 29.05.2023, passed by the learned Addl. CJM, Kamrup [M] at Guwahati, in GR Case No. 103/2015.

7. Apparently, no illegality appears to be committed by the learned court below in passing the impugned orders. However, the explanations, so forthcoming

for remaining absence in the court, also assume significance in given facts and circumstances of the case. Besides, the petitioner is willing to participate in the trial and undertakes to appear before the learned court below regularly. Therefore, this Court is inclined to dispose of this petition by directing the petitioner to appear before the learned court below 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. Till then the impugned orders dated 04.04.2018 – 29.05.2023, passed by the learned Addl. CJM, Kamrup [M] at Guwahati, in GR Case No. 103/2015, stands stayed.

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

JUDGE

Comparing Assistant