

GAHC010205132023



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

Case No. : Crl.Pet./975/2023

SIBONG LAMBA CHANG
S/O BENDANG CHANG
R/O HOUSE NO. 96,
ZELIANGRONGRAM VILLAGE, DIMAPUR
DIST. DIMAPUR, NAGALAND.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD. A J ATIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

06.11.2023

Heard Ms. A.H. Atia, learned counsel for the petitioner and Mr. B. Sarma, learned Additional Public Prosecutor for the State respondent.

2. In this petition, under Section 482 of the Cr.P.C. read with Sections 401/397 of the Cr.P.C. and read with Article 227 of the Constitution of India, the petitioner has put to challenge the correctness or otherwise of orders dated 20.06.2023 and 21.07.2023, passed by the learned Addl. Sessions Judge [FTC]

No. 3, Kamrup [M] at Guwahati in NDPS Case No. 91/2021.

3. It is to be noted here that vide orders dated 20.06.2023 and 21.07.2023, the learned court below has issued NBWA against the petitioner.

4. Ms. Atia, learned counsel for the petitioner submits that the petitioner hails from a very remote area of Nagaland and on that day he could not appear before the learned court below and he informed the same to his counsel to take step, but, before filing any petition, the learned court below has issued NBWA against the petitioner and subsequently, a petition was filed by the learned counsel for the petitioner before the learned court below, but the same was not pressed. To a pointed query of this Court, Ms. Atia, learned counsel for the petitioner further submits that the said petition is not enclosed with the present petition. Ms. Atia also submits that the petitioner will appear before the learned court below on each and every date and the petitioner may be given a chance to face the trial and therefore, it is contended to allow the petition.

5. On the other hand, Mr. Sarma, learned Addl. P.P. submits that though the learned counsel for the petitioner has submitted that one application was filed before the learned court below, but the said application is not available in the record of the learned court below, as such it cannot be held that a petition was filed on behalf of the petitioner 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 orders dated 20.06.2023 and 21.07.2023, passed by the learned Addl. Sessions Judge [FTC] No. 3, Kamrup [M] at Guwahati in NDPS Case No. 91/2021.

7. It appears from the impugned order dated 20.06.2023, that the petitioner remain absent before the learned court below till 1:10 pm and

thereafter, the learned court below has issued NBWA against the petitioner and also issued notice and on subsequent date also the petitioner remain absent and the learned court below has again ordered to issue fresh NBWA against the petitioner, as the earlier one did not return. Apparently, the impugned order suffers from no infirmity or illegality, to interfere the same.

8. However, as submitted by learned counsel for the petitioner that the petitioner will appear before the learned court below on each and every date, this Court is inclined to allow this petition by directing the petitioner to appear before the learned court below on or before the next date fixed, i.e. 05.12.2023, and in the event of his appearance and filing an application to allow him to remain on previous bail or to go on fresh bail, the learned court below shall consider the same in accordance with law.

9. Till then the impugned orders dated 20.06.2023 and 21.07.2023, passed by the learned Addl. Sessions Judge [FTC] No. 3, Kamrup [M] at Guwahati in NDPS Case No. 91/2021, shall be kept in abeyance.

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

JUDGE

Comparing Assistant