

GAHC010206112023



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

Case No. : Crl.Pet./973/2023

DIGANTA KATH BARUAH
S/O. LT. DHARANI DHAR BARUAH, R/O. VILLAGE- PURANA AMALAPATTY,
P.O/P.S AND DISTRICT-GOLAGHAT, ASSAM

VERSUS

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

2:SMTI. NOVOMITA DEVI
W/O. LT. BIPUL KUMAR SARMAH (SASTRI)
RESIDENT OF VILLAGE- BEBIKIA ATKHELIA GAON
P.O- PULIKAITONI
DIST- GOLAGHAT
ASSA

Advocate for the Petitioner : MR. K BORUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

13.10.2023

Heard Mr. K. Boruah, learned counsel for the petitioner and also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, appearing for the State

respondent No.1.

2. Order dated 21.08.2023 passed by the learned Chief Judicial Magistrate, Golaghat, in PRC Case No.534/2022, is challenged by the petitioner, namely, Diganta Nath Baruah, in this petition, under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973. It is to be noted here that vide impugned order dated 21.08.2023, the learned Court below has issued non-bailable warrant of arrest against the petitioner.

3. Mr. Boruah, learned counsel for the petitioner submits that the petitioner is an accused in PRC Case No.534/2022 under Section 279/337/304A IPC and he has been standing trial before the learned Court below. And on the relevant date, the petitioner could not appear before the learned Court below as he was denied station leave permission by the IGP (Admn.), his controlling officer, and his counsel had filed Petition No.2671/2023, before the Court of learned CJM, Golaghat, but the learned CJM had dismissed the same. Mr. Boruah further submits that the petitioner will appear before the learned Court below on each and every date and therefore, it is contended to allow this petition.

4. On the other hand, Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, submits that the impugned order passed by the learned Court below suffers from no illegality or infirmity, as the learned Court below had found that the conduct of the petitioner was not satisfactory and issued the warrant of arrest against him and therefore, Mr. Borthakur contended to dismiss the petition.

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 scanned copy of the record.

6. It appears that the learned Court below had issue non-bailable warrant of arrest against the petitioner vide order dated 21.08.2023 as on the relevant date, the petitioner remained absent and witnesses turned up and though the petitioner had filed one Petition, No.2671/2023, before the learned Court below, the learned Court below had found the same to be not at all satisfactory and therefore, dismissed the petition and issued non-bailable warrant of arrest against the petitioner.

7. Apparently, the impugned orders suffers from no infirmity or illegality. However, in the interest of justice and on being assured to appear before the learned Court below on each and every date, this Court is inclined to allow this petition. Accordingly, it is provided that the petitioner shall appear before the learned Court below on the next date i.e. 02.11.2023, and in the event of his appearance and filing an application for allowing him to go on bail/to remain on previous bail, the learned Court below shall consider the same in accordance with law. And till then, the non-bailable warrant of arrest issued against the petitioner shall be kept in abeyance.

8. In terms of above, this criminal petition stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant