

GAHC010209752023



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

Case No. : Crl.Rev.P./405/2023

MD. ABDUL HAQUE @ MOJIBUR AND ANR
S/O LATE JAINUDDIN
R/O VILL- NABAZAR (PUKHURIPAR)
P.O. BISWANATH GHAT,
P.S. BISWANATH CHARIALI,
PIN CODE- 784177

2: MD. FAJIBUR ALI
VILL- NABAZAR (PUKHURIPAR)
PRESENTLY STAYING NIZBISWANATH GHAT
P.S. BISWANATH CHARIALI
DIST. BISWANATH
ASSAM, PIN CODE- 78417

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. N ISLAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

19.09.2023

Heard Mr. N. Islam, learned counsel for the petitioners and also heard Mr. P.

Borthakur, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Correctness or otherwise of the order dated 23.08.2023, passed by the learned Special Judge, Assam, Guwahati, in Special (PMLA) Case No.3/2020 is challenged by the petitioners, namely, Md. Abdul Haque @ Mojibur and Md. Fajibur Ali, in this revision petition under Section 397 and 401 read with Section 482 of the Code of Criminal Procedure, 1973. It is to be noted here that vide impugned order dated 23.08.2023, the learned Court below has issued non-bailable warrant of arrest against both the petitioners.

3. Mr. Islam, learned counsel for the petitioners submits that the petitioners could not appear before the learned Court below on the date fixed i.e. 23.08.2023 on account of their illness and the petitioners have instructed their lawyer to file one petition, but the engaged lawyer could not file the same and that the petitioners are ready to participate in the trial and therefore, it is contended to allow this revision petition.

4. Mr. P. Borthakur, learned Additional Public Prosecutor, however, submits that the petitioners have failed to produce any medical document to substantiate the ground and that if the petitioners are willing to participate in the trial, they may be directed to appear before the learned Court below on or before the date fixed.

5. Having heard the submission of learned counsel for the petitioners and the learned Additional P.P., I have carefully gone through the petition and the documents placed on record and also perused the impugned order dated 23.08.2023.

6. It appears that on the date fixed the petitioners remained absent without any step, for which the learned Court below has issued non-bailable warrant of arrest against the petitioners. Apparently the impugned order so passed by the learned Court below suffers from no infirmity or illegality requiring interference of this Court. However, the petitioners undertake to appear before the learned Court below on each and every date and will participate in the trial.

7. In that view of the matter, this Court is inclined to allow this petition. It is provided that the petitioners shall appear before the learned Court below on or before 25.10.2023, and 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 order dated 23.08.2023, stands stayed.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant