

GAHC010211292023



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

Case No. : Crl.Pet./1036/2023

ANOWAR MONDAL
S/O FAJAL HAQUE
R/O VILL- SHAHAPUR
P.S. SHORBHUG
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MD I H LASKAR
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 26-09-2023

Heard Mr. I. H. Laskar, learned counsel for the petitioner and also heard Mr. P. Borthakur, learned Addl. P.P. for the State Respondent.

In this petition u/s 482 Cr.P.C., the petitioner has put to challenge the order, dated 23.11.2022, and all subsequent orders passed by the learned Chief Judicial Magistrate, Baksa, Mushalpur in P.R.C. Case No. 458/2021, arising out of Gobardhana P.S. Case No. 119/2017.

It is to be noted herein that vide impugned order, dated 23.11.2022, and vide all subsequent orders, the learned Court below has issued non-bailable warrant of arrest against the petitioner.

Mr. Laskar, learned counsel for the petitioner submits that the petitioner was charge sheeted in Gobardhana P.S. Case No. 119/2017, u/s 380 IPC, and the petitioner had appeared before the learned Court below on 20.9.2022, and the learned Court below had allowed him to remain on previous bail and thereafter, on 23.11.2022, the petitioner could not appear before the learned Court below, as he

was instructed by his engaged counsel that the offence is of petty nature and the government had withdrawn the case, and on such count, the petitioner remains absent in the Court, for which the learned Court below had issued non-bailable warrant of arrest against the petitioner.

Mr. Laskar, learned counsel for the petitioner further submits that the petitioner is ready to face the trial and will appear before the learned Court below on each and every day, and therefore, it is contended to allow this petitioner to appear before the learned Court below and to keep the warrant of arrest issued against him abeyance, till his appearance before the learned Court below.

On the other hand, Mr. P. Borthakur, learned Addl. P.P. submits that the petitioner remains absent before the Court below 23.11.2022, without any steps and therefore, the learned Court below has issued non-bailable warrant of arrest against the petitioner and as such, the impugned order suffers from no infirmity or illegality and therefore, it is contended to dismiss the petition.

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 23.11.2022. It appears that after submission of charge sheet, the petitioner appeared before the learned Court below and vide order dated 28.9.2022, the learned Court below had allowed the petitioner to remain on previous bail. But, subsequently on 23.11.2022, he remained absent without steps for which the learned Court below had issued non bailable warrant of arrest against him. As the petitioner was absent without any step on 23.11.2022, the impugned order so passed by the learned Court below cannot be said to be suffered from any illegality or infirmity. However, since the petitioner is now ready to face trial and assured to appear before the learned Court below on each and every date, this Court is inclined to dispose of the petition by directing the petitioner to appear the learned Court below on or before 28.10.2023, and in the event of his appearance and filing a petition to remain on previous bail or to grant him fresh bail, the learned Court below shall consider the same in accordance with law.

Till then, the non-bailable warrant of arrest issued against the petitioner vide order dated 23.11.2022, and all subsequent orders stands stayed.

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

JUDGE

Comparing Assistant