

GAHC010214182023



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

Case No. : Crl.Pet./1032/2023

BIKALPA DAS @ KRISHNA DAS
S/O PRADIP DAS
R/O VILL- PUB LAILUKI
P.S. RUPAHIHAT
DIST. NAGAON, ASSAM

VERSUS

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

2:PUSPA DAS
W/O BIMAL DAS
R/O DAKHIN BHUMURAGURI
P.S. RUPAHIHAT
DIST. NAGAON
ASSA

Advocate for the Petitioner : MR T H HAZARIKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

26.09.2023

Heard Mr. T.H. Hazarika, learned counsel for the petitioner and Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

2. In this petition, under Section 482 of the Cr.P.C., the petitioner namely, Bikalpa Das @ Sri Krishna Das has put to challenge the order dated 04.08.2023, passed by the learned Addl. Sessions Judge Cum Special Judge, Nagaon in Special POCSO Case No. 188/2023.

3. It is to be noted here that vide order dated 04.08.2023, the learned court below has issued Non-Bailable Warrant of Arrest [NBWA] against the petitioner.

4. Mr. Hazarika, learned counsel for the petitioner submits that at the relevant time the petitioner was working at Meghalaya in Sunshine Sawkmie Company as Roller Operator and he has received the summon, but he could not appear before the learned court below, as at the relevant time he was working at Meghalaya and in support of his submission Mr. Hazarika has referred to Annexure – 1, the identity card of the petitioner. Mr. Hazarika further submits that the petitioner is ready to participate in the trial and he will appear before the learned court below on each and every date and therefore, it is contended to allow the petition by directing the petitioner to appear before the learned court below on each and every date.

5. On the other hand, Mr. Borthakur, learned Addl. P.P. submits that the impugned order dated 04.08.2023, suffers from no infirmity or illegality, as the learned court below has issued NBWA only when the petitioner failed to turn up after receiving the summon and therefore, it is contended to dismiss the petition.

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 04.08.2023.

7. It appears that the learned court below at first issued summon to the petitioner, vide order dated 06.07.2023, and the petitioner has received the summon, but he failed to appear before the learned court below on 04.08.2023, and therefore, the learned court below has issued NBWA against the petitioner and as such, the impugned order suffers from no infirmity or illegality requiring any interference of this Court.

8. However, it is not in dispute that the petitioner was working at Meghalaya in Sunshine Sawkmie Company as Roller Operator and the relevant identity card, which is annexed with the petition as Annexure – 1. Since, the petitioner is willing to participate in the trial and assured to appear before the learned court below on each and every date, this Court is of the view that ends of justice will be meted out, if the petition is allowed by directing the petitioner to appear before the learned court below, on or before the date fixed i.e. 16.10.2023.

9. Accordingly, this petition stands disposed of by directing the petitioner to appear before the learned court below on or before 16.10.2023, and till then the NBWA issued against the petitioner stands stayed.

JUDGE

Comparing Assistant