

GAHC010214892023



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

Case No. : Crl.Rev.P./422/2023

MD. AMAN ALI
S/O MOYNAL HOQUE
R/O VILL- RANGAMATI (COLLEGE ROAD), P.O. AND P.S. GAURIPUR
DIST. DHUBRI, ASSAM
PIN-783331

VERSUS

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

2:MD. HARMUZ ALI MANDAL
S/O LATE RAHIM BOKSHO
R/O VILL- GHARAMARA
P.O. RAINADABRI
P.S. KOKRAJHAR
DIST. KOKRAJHAR
ASSAM
PIN NO. 78337

Advocate for the Petitioner : MR. N M SARKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

04.10.2023

Heard Mr. N.M. Sarkar, learned counsel for the petitioner and also heard Mr. P.

Borthakur, learned Additional Public Prosecutor, Assam, appearing for the State respondent No.1.

2. Correctness or otherwise of the order dated 22.09.2022 and subsequent orders dated 21.10.2022, 30.11.2022 and 17.01.2023 passed by the learned Sub-Divisional Judicial Magistrate (S), Kokrajhar, in PRC Case No.82/2022 corresponding to G.R. Case No.875/2020, is challenged by the petitioner, namely, Md. Aman Ali, in this criminal revision petition, under Section 401 read with Section 397 of the Code of Criminal Procedure, 1973. It is to be noted here that vide order dated 22.09.2022, the learned Court below has issued non-bailable warrant of arrest against the petitioner for remaining absent without any step, before the Court below, on that day and on subsequent dates, for which the learned Court below vide orders dated 21.10.2022, 30.11.2022 and 17.01.2023, had issued non-bailable warrant of arrest against the present petitioner.

3. Mr. Sarkar, learned counsel for the petitioner submits that the petitioner is a poor person and at the relevant point of time Covid-19 pandemic was prevalent and the petitioner was working at Kerala at that time and therefore, he could not appear before the learned Court below and now he wants to participate in the trial and he assured that the petitioner will appear before the learned Court below on each and every date and therefore, it is contended to give a chance to the petitioner to appear before the learned Court below.

4. Whereas, Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, submits that the impugned order dated 22.09.2022, and all subsequent orders, suffers from no infirmity or illegality requiring any interference of this Court. However, Mr. Borthakur submits that since the petitioner is willing to participate in the trial and also assured to remain present in the Court on each and every date, his prayer may be considered.

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 impugned order dated 22.09.2022 and all subsequent orders.

6. Apparently, the impugned order suffers from no infirmity or illegality, as non-bailable warrant of arrest was issued against the petitioner for remaining absent in the Court below without any step. However, since the petitioner is willing to participate in the trial and assured to remain present before the learned Court below on each and every date, this Court is inclined to allow this petition by directing him to appear before the learned Court below on 27.10.2023, and to apply for bail before the learned Court below and in the event of filing such an application, the learned Court below shall consider the same in accordance with law. Till then, non-bailable warrant of arrest issued against the petitioner shall be kept in abeyance.

7. In terms of above, this criminal revision petition stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant