

GAHC010217982023



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

Case No. : Crl.Pet./1051/2023

PORESH RAJKHOWA @ PRANAB RAJKHOWA
S/O SONARAM RAJKHOW
R/O AJAD RAJKHOWA GAON
P.S. PANIGAON
DIST. LAKHIMPUR, ASSAM

VERSUS

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

2:SRI SACHIN SAIKIA
S/O LATE DHARANI SAIKIA
R/O BRAJAJHAR GAON
P.S. ROWTA
DIST. UDALGURI (BTAD)
ASSA

Advocate for the Petitioner : MR. P K GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

28.09.2023

Heard Mr. P.K. Gogoi, learned counsel for the petitioner and Mr. P.

Borthakur, learned Additional Public Prosecutor for the State respondent.

2. In this revision petition, under Section 482 read with Section 401 or the Cr.P.C., the petitioner namely, Sri Poresh Rajkhowa @ Pranab Rajkhowa has put to challenge the correctness or otherwise of the orders dated 06.07.2023 and 28.08.2023, passed by the learned Addl. CJM, Darrang, Mangaldoi in PRC Case No. 529/2023, arising out of Mangaldoi PS Case no. 329/2016.

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

4. Mr. Gogoi, learned counsel for the petitioner submits that after submission of charge sheet, the learned court below has taken cognizance of the offence under Section 366[A] of the IPC and initially issued summon to one Pranab Rajkhowa and thereafter, vide impugned order dated 06.07.2023, the learned court below has issued NBWA against Pranab Rajkhowa, as he has been shown absconder in the charge sheet and vide order dated 28.08.2023, the learned court below further directed to issue fresh NBWA against him. Referring to Annexure – 5 [Pan Card] and Annexure – 6, [Aadhar Card] of the petitioner, Mr. Gogoi further submits that in fact he is Poresh Rajkhowa not Pranab Rajkhowa and therefore, he has not received the summon. Mr. Gogoi also submits that the petitioner is willing to participate in the trial and that he will appear before the court, on each and every date and therefore, it is contended to allow the petition, by setting aside the impugned orders dated 06.07.2023 and 28.08.2023.

5. On the other hand, Mr. Borthakur, learned Addl. P.P. submits that since the petitioner is willing to participate in the trial, he may be directed to appear before the learned court below and to stand trial.

6. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition as well as the document placed on record and also perused the impugned orders dated 06.07.2023 and 28.08.2023.

7. It appears from the impugned order dated 06.07.2023, that the learned court below has issued NBWA against the petitioner at the very first instance, as he has been shown as absconder in the charge sheet. But, it appears from the order dated 16.03.2023, that the learned court below has issued summon to the petitioner.

8. Having considered the submission of learned counsel for both the parties and also considering the facts and circumstances on the record, this Court is inclined to dispose of this petition by directing the petitioner to appear before the learned court below on 16.10.2023, and to 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.

9. Till then, the NBWA issued against the petitioner, stands stayed.

10. In terms of above, this Criminal Petitions stands disposed of.

Comparing Assistant

JUDGE