

GAHC010219542023



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

Case No. : Crl.Pet./1062/2023

LALMAMUD ALI AHMED
S/O LATE SIRAJ UDDIN
R/O VIL- SILAPATANI
P.S. PATACHARKUCHI
DIST. BARPETA, ASSAM

VERSUS

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

2:SHAJIRAN NESSA
W/O EUSUB ALI
R/O VILL- HALANGBARI
P.O. KATHALMURI GHAT
P.S. PATACHARKUCHI
DIST. BARPETA
ASSAM
PIN-78132

Advocate for the Petitioner : MR. M ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

03.10.2023

Heard Mr. M. Ali, learned counsel for the petitioner and also heard Mr. K.K. Parasar,

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

2. In this petition, under Section 482 of the Code of Criminal Petition, 1973, the petitioner, namely, Lalmamud Ali Ahmed has challenged the correctness or otherwise of the order dated 04.08.2023 passed by the learned Judicial Magistrate First Class, Bajali, Pathsala, in PRC Case No.71/2023. It is to be noted here that vide impugned order dated 04.08.2023, the learned Court below has issued non-bailable warrant of arrest against the petitioner.

3. Mr. Ali, learned counsel for the petitioner submits that the petitioner could not appear before the learned Court below on 04.08.2023 and on that day the petitioner had filed one petition before the learned Court below and the learned Court below has dismissed the same and issued non-bailable warrant of arrest against the petitioner. Further, learned counsel for the petitioner submits that the next date is fixed on 13.10.2023 and the petitioner is ready to appear before the learned Court below, but, as the non-bailable warrant of arrest is pending against him, he has the apprehension in mind that he may be arrested and remanded to jail hazot and therefore, it is contended to allow the petition by directing the petitioner to appear before the learned Court below on 13.10.2023, the next date fixed by the learned Court below and till then the non-bailable warrant of arrest issued against him may be stayed.

4. Mr. K.K. Parasar, learned Additional P.P. submits that he has no objection if the petitioner is directed to appear before the learned Court below on 13.10.2023 and to apply for regular bail and in that event, the learned Court below may be directed to consider the same in accordance with law.

5. Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the impugned order dated 04.08.2023.

6. It appears that though the petitioner could not appear before the learned Court below on that day, he had filed a petition, being Petition No.3679/2023, stating that due to absence of bailor he could not appear before the Court below on that day, but the learned Court below has dismissed the prayer and issued non-bailable warrant of arrest

against him. Apparently, the impugned order, so passed by the learned Court below, seems to be suffered from no any infirmity or illegality. However, since the petitioner is willing to appear before the learned Court below and to stand trial and assured to appear before the learned Court below on each and every date, this Court is inclined to dispose of this petition by directing him to appear before the learned Court below on or before 13.10.2023, and to apply for regular bail and in the event of his appearance and filing a petition, the learned Court below shall consider the same in accordance with law. Till then, the non-bailable warrant of arrest issued against the petitioner shall be kept in abeyance.

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

Sd/- Robin Phukan
JUDGE

Comparing Assistant