

GAHC010219942023



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

Case No. : Crl.Pet./1065/2023

AMINA BEGUM
W/O LATE JAILOV KHAN
PERMANENT ADDRESS-
R/O KALTOLICHAR, CHENGABAHARI
P.S. TARABARI, DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. S MUNIR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

04.10.2023

Heard Mr. S. Munir, 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. read with Article 227 of the Constitution of India, the petitioner namely, Smti. Amina Beguma has put to challenge the correctness or otherwise of the order dated 06.08.2022, and subsequent orders passed by the learned Addl. Sessions Judge No. 1, Kamrup

[M] at Guwahati in NDPS Case No. 83/2018, under Section 21[b] of the NDPS Act.

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. Munir, learned counsel for the petitioner submits that initially the petitioner was arrested by the police and this Court was pleased to grant bail and thereafter, charge sheet was submitted and she could not appear before the learned court below for which the learned court below vide order dated 06.08.2022, has issued NBWA against the petitioner. Mr. Munir further submits that on account of ill health the petitioner could not appear before the learned court below on the dates fixed. Therefore, it is contended to give the petitioner a chance to appear before the learned court below and to stand trial.

5. On the other hand, Mr. Borthakur, learned Addl. P.P. submits that the petitioner has received summon from the learned court below, but she failed to appear before the learned court below on multiple occasions for which NBWA was issued against the petitioner, vide order dated 06.08.2022 and vide subsequent orders and no satisfactory ground is assigned for remaining absent on the dates fixed by the learned court below and as such, the impugned orders, so passed by the learned court below, suffers from no infirmity or illegality requiring any interference of this Court.

6. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petitioner as well as the documents placed on record and also perused the impugned order dated 06.08.2022 and subsequent orders, by which the learned court below has issued NBWA against the petitioner.

7. It appears from the impugned orders that the same suffers from no

infirmity or illegality requiring interference of this Court as the petitioner remained absent on the dates fixed without any step and that no reasonable ground is assigned for remaining absent.

8. However, considering the submission of learned counsel for both the parties and also considering the fact that the petitioner is willing to stand the trial and therefore, this Court is inclined to dispose of this petition by directing the petitioner to appear before the learned court below, on or before the date fixed i.e. 07.11.2023, 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.

JUDGE

Comparing Assistant