

GAHC010226092023



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

Case No. : Crl.Pet./1090/2023

MD. RAMJAN ALI AND ANR
S/O MD SAINUR ALI
R/O VILL- HABLAKHA
P.S. GHOGRAPAR
DIST. NALBARI, ASSAM

2: MOBARAK ALI @ MABARAK ALI
S/O MD SAINUR ALI
R/O VILL- HABLAKHA
P.S. GHOGRAPAR
DIST. NALBARI
ASSA

VERSUS

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

Advocate for the Petitioner : MR Z ALAM

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 09-10-2023

Heard Mr. Z. Alam, learned counsel for the petitioner and also heard Mr. P. Borthakur, learned Addl. P.P. for the respondent State.

In this petition, u/s 482 of Cr. P.C., two petitioners, namely, 1. Md. Ramjan Ali and 2. Mobarak Ali @ Mabarak Ali, have put to challenge the orders dated 25.4.2023, and 13.7.2023, and all subsequent orders passed by the learned Addl. Chief Judicial Magistrate, Nalbari in PRC Case No.143/2021. It is to be noted here that the impugned orders, dated 25.4.2023, and 13.7.2023, the learned Court below has issued non-bailable warrant of arrest against the petitioners.

Mr. Alam, learned counsel for the petitioner submits that the petitioner No.1 was granted bail by police and that the petitioner No.2 was charge sheeted in the second charge sheet after reinvestigation of the case. Mr. Alam further submits that the petitioners were all along available in their residence, but the learned Court below has issued non-bailable warrant of arrest against them vide order dated 25.4.2023 and also order dated 13.7.2023, on the basis of police report which is not correct and that the petitioners are ready to face trial and they will appear before the learned Court below on each and every date and therefore, Mr. Alam contended to allow them to appear before the learned Court below and keep the warrant of arrest, issued against them, in abeyance, till their appearance before the learned Court below.

Mr. Borthakur, learned Addl. P.P. submits that the impugned order suffers from no infirmity or illegality requiring interference of this Court. However, Mr. Borthakur submits that since the petitioners are willing to face trial, they may be directed to appear before the learned Court below and till then warrant of arrest issued against them may be kept in abeyance.

Having heard the submission of learned Advocates of both sides and I have carefully gone through the petition and the documents placed on record specially the impugned orders, dated 25.4.2023, and 13.7.2023, passed by learned Addl. Chief Judicial Magistrate, Nalbari, in PRC Case No.143/2021. It appears that the impugned order suffers from no infirmity or illegality as the learned Court below, before issuing warrant of arrest has relied upon the report submitted by the police. However, since the petitioners are willing to participate in the trial and assured to appear before the learned Court below on each and every date, this Court inclined to dispose this petition by directing them to appear before the learned Court below on or before next date i.e. 9.11.2023, 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. Till then, the non-bailable warrant of arrest issued against the petitioners vide impugned orders dated 25.4.2023 and 13.7.2023 and subsequent orders, shall be kept in abeyance, till their appearance before the learned Court below.

JUDGE

Comparing Assistant