

GAHC010227412023



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

**Case No. : Crl.Pet./1110/2023**

MD. ABUL SARIF @ OMUL SHORIF  
S/O OSMAN GONI  
R/O VILL- UDHANTOLA  
P.O. PATIACHAPORI,  
P.S. DHING  
DIST. NAGAON, ASSAM

VERSUS

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

2:MUSTT. FATEMA KHATUN  
W/O MAMUD ALI  
R/O VILL- SOUTH JARAMARI  
P.S. DHING  
DIST. NAGAON  
ASSA

**Advocate for the Petitioner : MR. S U AHMED**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

**ORDER**

**Date : 11-10-2023**

Heard Mr. S U Ahmed, learned counsel for the petitioner and also  
heard Mr. RJ Baruah, learned Addl. PP, appearing for the State respondent.

This is an application under section 482 Cr.P.C., praying for quashing of the NBWA and P/A issued against the petitioner vide order(s) dated 31.10.2022, 13.12.2022, 03.02.2023, 10.03.2023, 24.03.2023 and 10.04.2023 in connection with (POCSO) Case No.114/2022 pending before the court of learned Additional District and Sessions Judge No.1 cum Special (POCSO) Judge, Nagaon, Assam.

The aforesaid NBWA have been issued as the petitioner failed to appear before the learned court below during the trial on 31.10.2022, 13.12.2022, 03.02.2023, 10.03.2023, 24.03.2023 and 10.04.2023.

The learned counsel for the petitioner by referring to paragraph No.6 of this application submits that there is no willful default on his part however for the reasons as explained in the aforesaid paragraph, the petitioner could not appear before the learned court below. The learned counsel for the petitioner further submits that the victim girl is not a minor and her birth certificate itself shows that she was more than 18 years on the date of commission of the alleged offence.

The learned counsel further submits that the petitioner undertakes that he will appear before the court on each and every date.

Considered the aforesaid submissions made and also considered the materials available on record including the statement made in this petition.

In view of the aforesaid, this Court is of the opinion that the petitioner is entitled for limited relief to the extent of staying the NBWA issued against him till the petitioner appear before the learned trial Court and seek regular bail/recall of the NBWA.

Accordingly, the present criminal petition is disposed of with a direction to the petitioner to appear before the learned trial Court on the next date fixed or within a period of 2 weeks from today whichever is

earlier and file appropriate application for recalling of the warrant or any other relief that the petitioner may be entitled.

It is further provided that till such period, the NBWA issued on 31.10.2022, 13.12.2022 and 03.02.2023 shall not be executed.

While parting with the record, it is clarified that this Court has not commented anything on the merit of explanation given and the learned trial court shall apply its own mind in deciding any application that may be filed by the petitioner as discussed herein above pursuant to this order and shall not be influenced by any observation made in the case by this court.

With the aforesaid observation, the criminal petition stands disposed of.

**JUDGE**

**Comparing Assistant**