

GAHC010241432023



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

Case No. : Crl.Pet./1173/2023

MOON DUTTA
S/O CHANDRESWAR DUTTA, R/O DHAKUAKHANA, GOVINDAPUR, DIST-
LAKHIMPUR, ASSAM-787055

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:MANTU RAM BORAH
S/O SUKLESWAR BORAH
SUB-INSPECTOR
DISPUR POLICE STATION
DIST- KAMRUP (M)
GUWAHATI-78100

Advocate for the Petitioner : MR. R DE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 06-11-2023

Heard Mr. R. Dey, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Addl. P.P for the State respondent.

In this petition, u/s 482 Cr.P.C, the petitioner, Sri Moon Dutta has challenged the

correction or otherwise of the order dated 01.12.2021, passed by the learned Sessions Judge, kamrup (M) Guwahati, in NDPS Case No. 05/2017.

It is to be noted here that vide impugned order dated 01.12.2021, the learned Court below has issued non-bailable warrant of arrest against the petitioner.

It is also to be noted here that the petitioner has been standing trial in NDPS Case No. 5/2017, arising out of Dispur P. S. Case No.2110/ 2015 u/s 20 (ii) (B)/29 of the NDPS Act, before the learned Sessions Judge, Kamrup, Guwahati and on 01.12.2021, the petitioner remained absent before the learned Court below for which the learned Court below has issued non-bailable warrant of arrest against him.

Mr. Dey, learned counsel for the petitioner submits that the petitioner after receiving notice from the learned Court below had entered appearance and he was granted bail and thereafter, he had gone to Uttar Pradesh for pursuing B. Pharm and thereafter, to pursue MBA in Arunachal Pradesh and in the meantime, COVID-19 pandemic started, for which he could not appear before the learned Court below and the learned Court below then issued non-bailable warrant of arrest against the petitioner on 1.12.2021. Mr. Dey further submits that the petitioner is ready to participate in the trial and will appear before the learned Court below on each and every date and therefore, it is contended that to allow the petition.

On the other hand, Mr. B. Sarma, learned Addl. P.P. submits that the petitioner may be directed to appear before the learned Court below, on the next date fixed i.e 30.11.2023.

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 01.12.2021.

It is to be noted here that on the date fixed, the petitioner remained absent in the learned Court below for which the learned Court below has issued non-bailable warrant of arrest against him.

Having considered the facts and circumstances on record and also considering the

explanation, so forthcoming for remaining absent on 1.12.2021, this Court is inclined to dispose of the petition at this motion stage itself, by directing the petitioner to appear before the learned Court below on 30.11.2023, and in the event of his appearance and on filing a petition for allowing him to remain on previous bail or to allow him to go on fresh bail, 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.

In terms of above, this Criminal Petition stands disposed of.

JUDGE

Comparing Assistant