

GAHC010242562023



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

Case No. : Crl.Pet./1167/2023

DIPAK DOME
S/O LT DUDHNATH DOME, R/O SHANTIPARA WEST, BASBARI,
DIBRUGARH WEST, DIBRUGARH, ASSAM, PIN 786001

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR P K DAS
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 06-11-2023

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

Order dated 12.4.2023 passed by the learned Addl. Sessions Judge, (F.T.C) Dibrugarh in Sessions Case No. 14 of 2022 is put to challenge in this petition under Section 482 Cr.P.C. read with Article 227 of the Constitution of India. It is to be noted here that vide impugned order dated 12.4.2023, the learned Court below has issued Non-bailable Warrant of Arrest against the petitioner.

The background facts leading to filing of this petition is briefly stated as under:-

The petitioner has been standing trial in Sessions Case No. No. 14/2022, pending before the learned Addl. Sessions Judge, (F.T.C), Dibrugarh. The petitioner could not appear before the learned the learned Court below on 12.4.2023 and on that day his engaged counsel filed a Petition No. 454/2023, before the learned Court below, stating that despite several calls made by him, the petitioner, neither received the call nor called him back and therefore, he wants to withdraw from case. Thereafter, the learned Court below has issued non-bailable warrant of arrest against the petitioner and vide subsequent orders also, the learned court below has continued to issue non-bailable warrant of arrest against the petitioner.

Mr. Das, learned counsel for the petitioner submits that the petitioner was appearing before the learned court below regularly till 11.1.2023 and thereafter, for his avocation, he shifted to Guwahati and during that time he lost his mobile phone and his financial condition was weak and therefore, he could not be able to purchase a new mobile phone and as such, he could not contact his Advocate and he had instructed his family members to go and meet the engaged Advocate. But, the learned Court below vide order dated 12.04.2023, has issued non-bailable warrant of arrest against the petitioner. Mr. Das, 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 recall the non-bailable warrant of arrest against the petitioner.

On the other hand, Mr. B. Sarma, learned Addl. P.P. submits that since the petitioner has assured to appear before the learned Court below on each and every date, therefore, he may be given a chance.

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 12.4.2023.

Apparently, the impugned order, so passed by the learned Court below, suffers from no illegality or infirmity. However, the grounds assigned by the learned counsel for the petitioner also cannot be ignored, at the same time.

In view of the explanation, so forthcoming from the petitioner, and also having regard to the submission of learned counsel for both the parties, this Court is inclined to direct the petitioner to appear before the learned Court below, on the next date i.e. 10.11.2023, 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