

GAHC010258282023



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

Case No. : Crl.Pet./1226/2023

KARIM ALI @ ABDUL KARIM
S/O LATE AYNUDDIN
R/O VILL- AYCHARAPARA
P.O. JOSHIHATIPARA
P.S. HOWLY
DIST. BARPETA, ASSAM, PIN-781316

VERSUS

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

2:SAHARA KHATUN
D/O LATE HATEM ALI
W/O KARIM ALI @ ABDUL KARIM
R/O VILL- AYCHARAPARA
P.O. JOSHIHATIPARA
P.S. HOWLY DIST. BARPETA
ASSAM PIN-78131

Advocate for the Petitioner : MR. M ALI

Advocate for the Respondent : PP, ASSAM

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

21.11.2023

Heard Mr R Islam, learned counsel for the petitioner, Karim Ali @ Abdul Karim.

2. The petitioner has filed application under Section 482 CrPC with prayer to set aside

and quash the order dated 28.03.2023 and other subsequent orders, passed by the learned JMFC, Barpeta, whereby NBWA was issued against the petitioner in connection with PRC Case No. 553/2020, under Section 376 IPC.

3. Heard Ms A Begum, learned Additional Public Prosecutor for the State of Assam.

4. Ms A Begum, learned Additional Public Prosecutor has accepted notice on behalf of the respondent No. 1. So, no formal notice is required to be issued to respondent No. 1. However, sufficient copies be furnished to the respondent No. 1, during the course of the day.

5. I have considered the submissions at the Bar with circumspection.

6. It is submitted that the petitioner was regularly absent with steps till 31.10.2022 and, thereafter, the learned counsel for the petitioner failed to take steps and so, bailable warrant of arrest was issued against the petitioner and finally, vide the order dated 28.03.2023, NBWA was issued against the petitioner. The petitioner, thereafter, did not appear before the Court as he was apprehending that he may be forwarded to custody.

7. The learned Additional Public Prosecutor has raised objection against the submission of the petitioner, stating that the order cannot be set aside and quashed, as the order does not suffer from any illegality and it is not a perverse order. The petitioner had never appeared before the Court.

8. I have considered the submission that the petitioner is at present, married to the victim. The petitioner is 50 years old and the victim is 38 years old. They have also amicably settled the dispute. The petitioner is willing to cooperate with the trial. The victim has also settled the dispute with the petitioner and the possibility of conviction appears to be remote and bleak. The petitioner has pledged to cooperate with the trial.

9. A pragmatic approach ought to be taken as the petitioner is willing to cooperate with the trial. The petitioner is directed to appear before the Court of learned JMFC, Barpeta, within 15 days from today and apply for regular bail, which may be considered

by the Court as per merits of the case.

10. Meanwhile, the NBWA is kept in abeyance, till the appearance of the petitioner before the learned JMFC, Barpeta, within 15 days from today.

11. Criminal Petition stands disposed of.

JUDGE

Comparing Assistant