

GAHC010263152023



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

Case No. : Crl.Pet./1238/2023

BINOD RAI @ BINOD ROY
S/O LT. NOGENDRA RAI,
OF ROSEKANDI T.E., P.S. SILCHAR,
R/O ROSEKANDI TEA ESTATE, P.O. BORJALENGA, P.S. DWARBOND,
DIST. CACHAR, ASSAM, PIN-788001

VERSUS

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

2:SMTI. BINA RAI
D/O NIRANJAN RAI
R/O RUSHKANDI TEA ESTATE
P.O. BORJALENGA
P.S. SILCHAR

DIST. CACHAR
ASSAM
PIN-78800

Advocate for the Petitioner : MR. A M S MAZUMDER

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

28.11.2023

Heard Mr. A.M.S. Mazumder, learned counsel for the petitioner. Also heard Ms. S. Jahan, learned Additional Public Prosecutor, Assam.

This application under Section 482 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, Sri Binod Rai @ Binod Roy, for setting aside the order dated 20.07.2023, 04.08.2023 and 03.10.2023, whereby, non-bailable warrant of arrest was issued against the present petitioner by the learned Additional Chief Judicial Magistrate, Cachar, in P.R.C. Case No. 978/2019.

Learned counsel for the petitioner has submitted that on 18.03.2023, the P.R.C. Case No. 978/2019 was fixed before the learned Additional Chief Judicial Magistrate, Silchar, Cachar and on the said date, the petitioner could not appear before the learned Committal Court and he engaged a counsel to show the cause of his absence before the learned Committal Court. On that day, the next date was fixed on 18.05.2023. On 18.05.2023 also the petitioner remained absent with steps showing cause of his absence. However, on 18.05.2023, the Court fixed the next date again on 18.05.2023 which according to learned counsel for the petitioner, it might be due to typographical mistake. However, he was not aware of the next date fixed and the case was again put up before the learned Trial Court on 20.07.2023 and on the said date, the petitioner was absent before the learned Committal Court as he was not aware about the next date fixed as on 18.05.2023, no mention about the date 20.07.2023 was made.

It is further submitted by learned counsel for the petitioner that on

20.07.2023, the learned Committal Court issued non-bailable warrant of arrest against the petitioner. However, it is submitted that the absence of the petitioner before the learned Committal Court was not intentional. It was only due to the communication gap, due to wrong mentioning of the date in the order sheet itself.

Learned counsel for the petitioner further submits that the petitioner is ready to appear before the learned Committal Court. However, due to the pending non-bailable warrant of arrest issued against the present petitioner, he is apprehending that he may be arrested.

Learned counsel for the petitioner also submits that P.R.C. Case No. 978/2019 is next fixed on 05.01.2024 and he is ready to appear before the learned Committal Court on the said date.

Learned Additional Public Prosecutor also does not oppose the prayer of the petitioner to facilitate him in appearing before the learned Committal Court on the next date fixed.

In view of the submissions made by learned counsel for the parties and in view of the fact that apparently there was a mistake of mentioning of date by the learned Committal Court on 18.05.2023, the petitioner, namely, Sri Binod Rai @ Binod Roy, is hereby directed to appear before the learned Trial Court on 05.01.2024 and to facilitate his appearance before the learned Committal Court, the operation of non-bailable warrant of arrest issued against him by the learned Committal Court shall be kept in abeyance till 05.01.2024.

With the above observations, the instant Criminal Revision Petition is hereby disposed of.

JUDGE

Comparing Assistant