

GAHC010271772023



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

Case No. : Crl.Pet./1277/2023

PINKU CHUTIA
S/O SHRI MAJIN KR. CHUTIA
R/O GANGAPUR
P.O. AND P.S. MORIANI
DIST. JORHAT, ASSAM
PIN-785007

VERSUS

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

2:SRI RIKUL MAJINDER BARUA
R/O HATIGAON

BANFUL PATH

DIST. KAMRUP (M)
ASSAM

PIN-78103

Advocate for the Petitioner : MR. B CHETRI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 06-12-2023

- 1.** Heard Mr. B. Chetri, learned counsel for the petitioner and Mr. D.P. Goswami, learned Addl. PP, Assam.
- 2.** The learned Addl. P.P. has accepted notice on behalf of respondent No. 1, so no formal notice is required to be issued to respondent No. 1. However, subsequent copies to be furnished to the respondent during the course of the day.
- 3.** The petitioner has filed this application u/s 482 Cr.PC read with Sections 397/401 Cr.PC seeking quashing the NBWA issued by the learned SDJM, Kamrup (M) vide order dated 03.05.2023 in G.R. Case No. 5446/2009 arising out of Hatigaon P.S. Case No. 107/2009 u/s 420/406/506/34 IPC.
- 4.** I have considered the submissions at the Bar. The petitioner has annexed the FIR as Annexure-A of the petition which clearly reveals that FIR was lodged on 12.06.2009. It is submitted that charge-sheet was laid against the petitioner on 27.09.2012. However, a copy of the charge-sheet is not annexed with this petition. Vide the impugned order dated 03.05.2023, the petitioner Pinku Chutia who was absent with steps and the petition No. 5848/2023 which was filed which was rejected. The order dated 03.05.2023, which is reproduced herein below:

“03.05.2023

Accused persons Pinku Chutia and Ratul Chutia are absent with steps showing cause vide petition No. 5848/2023 which is rejected as the grounds shown in the petition is not satisfactory. Perusal of C.R. reveals that the accused persons already allowed to go on previous two occasions i.e. 26.10.2021 and 06.02.2023. It may be presumed that the accused are trying to evade the process of law. Hence I deem it fit to issue NBWA against the accused-persons to procure their attendance.

Fix 24.04.2023 for appearance.”

- 5.** The order clearly reflects that on two dates i.e. on 26.10.2021 and on 06.02.2023 the

petitioner was granted leave by the trial Court. This is an old pending case and the FIR was lodged on 12.06.2009 and the case is registered u/s 420/406 IPC against the petitioner. The order dated 03.05.2023 clearly reflects the conduct of the petitioner. In the year 2021 and again on 2023, on two occasions the petitioner was granted leave. However, the trial Court was pleased to reject the petition filed by the petitioner on 03.05.2023. It is not clear from the present petition at which stage the case is pending. The case may be pending at the stage of appearance or at the stage of evidence. Without the LCR, it could not be ascertained if the case is procrastinating due to the conduct of the petitioner. I have considered the submissions that the petitioner is willing to co-operate with the trial and thus a pragmatic view is taken.

6. The petitioner is directed to appear before the learned trial Court and apply for bail which may be considered by the learned trial Court as per merits of the case.

In terms of the above observation, petition stands disposed of.

JUDGE

Comparing Assistant