

GAHC010275222023



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

Case No. : Crl.Pet./1289/2023

MD MAFIJUR RAHMAN
S/O SALAM UDDIN
R/O VILL- KANCHANPUR
P.S. RUPAHIHAT
DIST. NAGAON, ASSAM

VERSUS

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

2:UTTAM KURMI
S/O NANDESWAR KURMI
R/O BORGANG
P.S. BEHALI
DIST. BISWANATH
ASSA

Advocate for the Petitioner : MR. S C BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 11.12.2023

Heard Mr. S. C. Biswas, learned counsel for the petitioner. Also heard

Mr. P. Borthakur, learned Additional Public Prosecutor for the State.

This application under Section 482 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, praying for quashing of non bailable warrant of arrest and proclamation and attachment order issued against the present petitioner in PRC Case No. 598/2020 by the Court of learned Chief Judicial Magistrate, Biswanath.

The case of the petitioner is that on the basis of an FIR which was lodged by one Uttam Kurmi before the Officer-in-Charge of Borgang Police Outpost under Behali Police Station on 20.08.2020 and investigation was initiated and after completion of investigation charge-sheet was laid bearing charge-sheet no. 05/2022 dated 21.01.2022 under Section 379/34 of the Indian Penal Code read with Section 11(1)(a)(b)(c) of the Prevention of Cruelty to Animals Act, 1960 against two accused persons including the present petitioner showing their names in Column No. 2 as absconder.

Learned counsel for the petitioner has submitted that though the learned Trial Court had initially issued summons to the present petitioner, however, on receipt of summons the petitioner could not appear before the learned Trial Court and he engaged an advocate who had filed a petition before the learned Trial Court bearing No. 3558/2023 on 18.09.2023, which was allowed by the learned Trial Court and the next date was fixed on 10.10.2023.

It is submitted by learned counsel for the petitioner that on the said date the engaged counsel of the petitioner defaulted in appearing before the learned Trial Court and as a result of which Trial Court issued non bailable warrant of arrest against the present petitioner.

Learned counsel for the petitioner has submitted that the learned Trial Court ought to have issued bailable warrant of arrest at the first instance.

Learned counsel for the petitioner has further submitted that the petitioner is ready to face trial and ready to co-operate in his trial however, he seeks an interim protection as pending non bailable warrant has been issued against the present petitioner.

Considering the submissions made by learned counsel for the petitioner, learned Additional Public Prosecutor does not oppose the prayer to allow the petitioner to appear before the learned Trial Court on the undertaking that he shall appear and cooperate in his trial.

Considering the submissions made by learned counsel for the petitioner as well as learned Additional Public Prosecutor and considering the facts and circumstances of this case, this Criminal Petition is disposed of with a direction to the petitioner, namely, Md Mafijur Rahman to appear before the learned Trial Court within a period of 15 days from the date of this order and to facilitate such appearance before learned Trial Court, the non bailable warrant of arrest issued against him shall be kept in abeyance for next 15 days.

The petitioner may make prayer for any appropriate relief before the learned Trial Court on his appearance before the learned Trial Court which may be considered by the learned Trial Court.

JUDGE

Comparing Assistant