

GAHC010280682023



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

Case No. : Crl.Pet./1338/2023

BISWAJIT KASHYAP
S/O SRI GOLAK KALITA
R/O VILL- BHEBARGHAT, KALITAPARA
P.S. MANGALDAI
DIST. DARRANG, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 18.12.2023

- 1.** Heard Mr. M. Ahmed, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State.
- 2.** This application under section 482 of the Code of Criminal Procedure,

1973 has been filed by the petitioner, namely, Biswajit Kashyap, impugning the order dated 24.04.2023 and subsequent orders passed by learned Sub Divisional Judicial Magistrate (s) Darrang, Mangaldai in G. R. Case No. 3787/2017 whereby non bailable warrant of arrest was issued against the present petitioner.

3. Learned counsel for the petitioner has submitted that the petitioner is a resident of Sonitpur, however, there is a case pending against him in the Court of learned Sub Divisional Judicial Magistrate (s) Darrang, Mangaldai.e., G. R. Case No. 3787/2017, wherein summons were issued to the present petitioner.

4. Learned counsel for the petitioner has submitted that after receipt of the summons from the learned Trial Court,the petitioner appeared before the Trial Court and obtained the bail.However, in the year 2021, the Court proceeding was affected due to Covid-19 and the petitioner could not appear before the learned Trial Court due to prevailing Covid-19 pandemic at that time.

5. Learned counsel for the petitioner has submitted that after resumption of Court, proceedings after Covid-19, fresh summons were issued to the petitioner, however, he had not received the fresh summons and on 24.04.2023 when the case was fixed before the learned Trial Court the Trial Court issued non bailable warrant of arrest against the present petitioner without considering the fact that the summons issued by the said Court were not received by the present petitioner.

6. Learned counsel for the petitioner has submitted that G. R. Case No. 3787/2017 has now been fixed on 22.02.2024 and the petitioner is ready to appear before the Trial Court and cooperate in the trial.However, he prays for an interim protection to facilitate the petitioner to appear before the learned Trial Court as non bailable warrant has been issued and the same is pending

against the said petitioner.

7. The learned Additional Public Prosecutor submits that the record shows that the petitioner at the first instant voluntarily appeared before the learned Trial Court and also considering the submissions made by learned counsel for the petitioner that the petitioner is ready to face trial, the learned Additional Public Prosecutor does not oppose the prayer for interim protection.

8. Hence, this criminal petition is disposed of with the direction to the petitioner, namely, Biswajit Kashyap to appear before the Court of learned Sub Divisional Judicial Magistrate (s) Darrang, Mangaldai in G. R. Case No. 3787/2017 on or before the next date fixed i.e. 22.02.2024 and to facilitate such appearance of the present petitioner before the learned Trial Court, the non bailable warrant issued against him by the learned Trial Court shall be kept in abeyance till 22.02.2024.

9. With the above observations, this criminal petition is hereby disposed of.

JUDGE

Comparing Assistant