

GAHC010015432024



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

Case No. : Crl.Pet./92/2024

JYOTISH KALITA
S/O LATE NAGEN KALITA
R/O BHAGABATI PARA
P.S. PALASHBARI
OUT POST- BIJOY NAGAR, RAMPUR
DIST. KAMRUP, ASSAM
PIN-781132

VERSUS

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

2:SRI SAMAR JYOTI DAS
S/O SRI JYOTISH CHANDRA DAS
R/O NORTH GUWAHATI MADHYAM KHANDA
DIST. KAMRUP
ASSAM

Advocate for the Petitioner : MR. R SARMA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

30.01.2024

Heard Mr R Sarma, learned counsel for the petitioner, Jyotish Kalita.

2. The petitioner has filed this application under Section 482 CrPC, seeking quashing of the order dated 16.11.2023, passed by the learned Additional Sessions Judge No. 1, Kamrup (Metro), in connection with Sessions Case No. 58/2015, under Sections 302/34 IPC, issuing NBWA against the petitioner.
3. It is submitted that there was an error in writing down the date and the petitioner could not appear on the date fixed and warrant was issued against the petitioner.
4. Heard Ms B Bhuyan, learned Additional Public Prosecutor, assisted by Ms P Borah, learned counsel for the respondent No. 1/ State of Assam.
5. Notice has been accepted on behalf of respondent No. 1.
6. I have perused the impugned order dated 16.11.2023, marked as Annexure-A of the petition.
7. It is apparent from the impugned order that the petitioner was absent on the previous date and on the previous date, NBWA was issued against the petitioner.
8. It is submitted on behalf of the petitioner that he is willing to cooperate with the trial. It is also submitted on behalf of the petitioner that he was present on various dates fixed, from 13.05.2015 up to 30.05.2016, but despite his endeavours, the petitioner could not be present on some occasions, due to his ailment and personal problem.
9. I have taken a pragmatic view and I have also considered the submission that the petitioner has pledged not to default appearance and cooperate with the trial.

10. The NBWA issued against the petitioner is kept in abeyance for 15 days and within 15 days, the petitioner is directed to appear before the learned trial Court and cooperate with the trial.

11. The Criminal Petition stands disposed of.

JUDGE

Comparing Assistant