

GAHC010015442024



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

Case No. : Crl.Pet./105/2024

DILIP BORA
S/O- LATE HARENDRA BORAH, RESIDENT OF BORAGAON, POLICE
STATION- GARCHUK, DISTRICT- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P., ASSAM

Advocate for the Petitioner : MR. R SARMA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 05-02-2024

Heard Mr. R. Sarma, learned counsel for the petitioner. Also heard Mr. K.K. Das, learned Addl. P.P. for the respondent.

In this petition u/s 482 Cr.P.C, the petitioner, namely Sri Dilip Bora has put to challenge the correctness or otherwise the order dated 30.10.2023, passed by

the learned Chief Judicial Magistrate, Kamrup (M), Guwahati.

It is to be noted here that vide impugned order dated 30.10.2023, the learned Court below has directed to issue non-bailable warrant of arrest against the present petitioner, as he remained absent on that day without any steps.

Mr. Sarma, learned counsel for the petitioner submits that due to some inadvertent mistake he could not communicate the order dated 01.08.2023 passed in PRC Case No 1622/2021 by learned CJM, Kamrup(M), fixing the next date on 30.10.2023 to the petitioner for which the petitioner did not turn up and he also could not take any step due to some error of posting of the case in his diary. Mr. Sarma, further submits that the next date is fixed on 16.3.2024 and the accused will appear before the learned Court below on that day and he also undertakes to appear before the learned Court below on each and every date fixed by the Court and therefore Mr. Sarma, contended that the impugned order, dated 30.10.2023, may be set aside and the petitioner may be directed to appear before the learned Court below and to face trial.

Mr. K. K. Das, learned Addl.P.P. also submits that the petitioner may be directed to appear before the learned Court below and to face trial. However, Mr. Das submits that as the earlier orders, passed by learned Court below, has not been placed on record, it could not be said that he was present on earlier occasion before the learned Court below.

Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record and also perused the impugned order dated 30.10.2023.

It appears that vide impugned order dated 30.10.2023, the learned Court below has issued non-bailable warrant of arrest against the petitioner as he remained absent without taking any steps. It also appears from the documents placed on

record that the case is pending at the stage of evidence and one witness has already been examined. Apparently the impugned order suffers from no illegality or infirmity. As submitted by Mr. Sarma, it was his fault that he could not communicate the date to the petitioner. Since Mr. Sarma, learned counsel for the petitioner has assured that the accused will appear before the learned court below on each and every date and face the trial, this Court is inclined to dispose of the petition by directing the petitioner to appear before the learned Court below on the next date i.e. 16.3.2024, and to apply for regular bail or to allow him to remain on previous bail, and in the event of filing such an application, the learned court below shall consider the same in accordance with law.

Till then, the impugned order dated 30.10.2023 passed by learned C.J.M, Kamrup(M) shall be kept in abeyance .

JUDGE

Comparing Assistant