

GAHC010016972024



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

Case No. : Crl.Rev.P./68/2024

MD. ABU HANIFA AND ANR
S/O UMAR ALI
R/O VILL- SONAPUR RESERVE GAON
P.S. BIHPURIA
DIST. LAKHIMPUR, ASSAM

2: MD. SAIFUL ISLAM
S/O MONUR UDDIN
R/O VILL- SONAPUR
RESERVE GAON
P.S. BIHPURIA
DIST. LAKHIMPUR
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 08.04.2024

Heard Mr. B. Chowdhury, learned counsel for the petitioner. Also heard Ms. B. Bhuyan, learned senior counsel/ learned Additional Public Prosecutor assisted by Ms. M. Chakraborty for the State respondent.

This is an application under Section 401/397 R/w Section 482 Cr.P.C, 1973 praying for setting aside and quashing of the impugned order dated 13.12.2023, 06.10.2023, 08.09.2023, 23.06.2023, 31.05.2023, 29.03.2023 passed in GR No.2795/2016 corresponding to Bihpuria Police Station Case No.808/2016 under Sections 143/451/342/325/354/188/366/511 IPC by the learned Sub-Divisional Judicial Magistrate, Lakhimpur, North Lakhimpur thereby issued NBWA against the accused

It is submitted by the learned counsel for the petitioner that both the accused are innocent and false case has been implicated in this case. During the entire period of prosecution, they were not searched by police and they were not aware about the pendency of the case. However, both the accused/petitioner were shown absconder in the charge-sheet and before service of summon, the learned Court below passed the order of NBWA against them and hence they apprehend.

Both the accused/petitioner appeared before the Court praying for anticipatory bail. However, in earlier occasions they approached the learned Court below with a prayer for anticipatory bail which was rejected by the Court below. He further submits that both the accused are willing to appear before the Court below, if they are allowed to go on bail and they appear before the Court regularly after if a chance is given to the accused/petitioners to appear before the Court below.

In this connection, learned Additional Public Prosecutor submits that the limited prayer may be allowed with a direction to the accused/petitioners to appear before the Court below with an appropriate bail application which may be considered by the Court below in accordance with law.

I have heard the submissions made by the learned counsel for both sides and also perused the case record. It is seen that both the accused/petitioner were shown absconder in the charge-sheet and it is seen vide order dated 29.03.2023 the order of issuance of NBWA was passed by the Court below, considering the fact that the case is old pending one and summons were not served on several occasions. However, considering all aspects of this case, I find it a fit case to direct both the accused/petitioner to file appropriate application for bail within 10 days from the date of order which may be considered in accordance with law and till then, the execution of NBWA be stayed/suspended.

Accordingly, the criminal revision petitions stands disposed of.

JUDGE

Comparing Assistant