

GAHC010021252024



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

Case No. : I.A.(CrI.)/101/2024

RABI SAIKIA,
S/O LT. CHANDI RAM SAIKIA R/O VILL- SALAGURI UNDER P.O. SALAGURI
P.S. JAMUGURIHAT IN THE DIST. OF SONITPUR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE LEARNED PP, TO THE GOVT. OF ASSAM, IN THE GAUHATI
HIGH COURT, GUWAHATI, ASSAM.

2:THE EXECUTIVE ENGINEER

ITAKHOLA DIVISION
IRRIGATION DEPARTMENT
GOVT. OF ASSAM
ITAKHOLA SONITPUR
ASSAM.

3:THE ASSTT. EXECUTIVE ENGINEER

SEIJUSA SUB DIVISION UNDER ITAKHOLA DIVISION
IRRIGATION DEPARTMENT
GOVT. OF ASSAM
ITAKHOLA SONITPUR
ASSAM.

4:SRI SOMESWAR LASKAR
INSPECTOR OF POLICE
CID
ASSAM GUWAHATI
ULUBARI
PIN - 781007

Advocate for the Petitioner : MR G CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

07.02.2024

Heard Mr G Choudhury, learned counsel for the applicant, Sri Rabi Saikia.

2. The applicant has filed this interlocutory application for recalling the order dated 08.11.2023 and/or rescinding the bailable warrant of arrest issued against the applicant, as per order dated 16.12.2023, passed in Special Case No. 21/2012.
3. Heard Mr B B Gogoi, learned Additional Public Prosecutor for the State of Assam.
4. It is submitted on behalf of the applicant/pettoiner that vide order dated 27.04.2023, this Court has passed an order that the interim order of stay of the proceedings of Special Case No. 21/2012, would continue, but the learned trial Court relied on the decision of Hon'ble the Supreme Court in *Asian Resurfacing of Road Agency Private Limited & Anr. –Vs- CBI*, reported in **(2018) 16 SCC 299**, and vacated the order of stay as 6 (six) months have already elapsed, since the date when this Court had passed the order on 27.04.2023, in connection with Criminal Petition No. 714 of 2015.
5. It is submitted on behalf of the petitioner that before the order was vacated, the petitioner was not heard and moreover, no date was fixed. The order was passed erroneously in an irregular manner.
6. The petitioner has drawn out sufficient grounds to continue with the stay of the

proceedngs.

7. The order of interim stay dated 09.09.2015, has been continuing till 27.04.2023.

This will cause immense difficulty if at this stage, the order is vacated.

8. It is also submitted that the matter may be fixed for hearing on an earlier date.

9. Considering all aspects, the interim order dated 09.09.2015, would continue from 27.04.2023, until further order(s). The orders of the learned trial Court dated 08.11.2023 and 16.12.2023 are suspended, until further order(s).

10. Interlocutory Application stands disposed of.

JUDGE

Comparing Assistant