

GAHC010023582024



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

Case No. : Crl.Pet./122/2024

BILLAL HUSSAIN
S/O HASEN ALI
R/O NO. 1 MALIBARI PATHER
P.O. MALIBARI BAZAR
P.S. BOKO
DIST. KAMRUP, ASSAM
PH. NO. 9859043615 (M)

VERSUS

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

2:BADSER ALI
S/O LT. HARAN ALI
R/O NO. 1 MALIBARI PATHER
P.O. MALIBARI BAZAR
P.S. BOKO
DIST. KAMRUP
ASSAM
PIN-78113

Advocate for the Petitioner : MR. A ALI

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 07.02.2024

Heard Mr. A. Ali, learned counsel for the petitioner and Ms. A. Begum, learned Addl. Public Prosecutor for the State respondent No. 1.

2. In this petition, under Section 482 Cr.P.C., read with Section 401 Cr.P.C. and read with Article 226/227 of the Constitution of India, the petitioner, namely, Billal Hussain, has put to challenge the order dated 30.09.2022, and all subsequent orders passed by the learned Sessions Judge, Kamrup, Amingaon in connection with Sessions Case No. 25/2019.

3. It is to be noted here that vide impugned order dated 30.09.2022, and all subsequent orders, the learned Court below has issued non-bailable warrant of arrest against the petitioner for remaining absent in the Court on the said dates.

4. Mr. Ali, learned counsel for the petitioner submits that the petitioner has been standing trial in Sessions Case No. 25/2019, arising out of G.R. Case No. 879(K)/2017, corresponding to Boko P.S. Case No. 248/2017, under Sections 341/366/511/325/34 of the IPC, and that on 20.07.2022, he remained absent for which a petition No. 2374/2022 was filed on his behalf and the same was allowed by the learned Court below, and the next date was fixed on 30.09.2022. And on that day i.e. 30.09.2022, the petitioner could not appear before the learned Court below as the date was not communicated to him and that he is ready to face trial and will appear before the learned Court below on each and every date, and therefore, it is contended to allow the petition by setting aside the impugned order dated 30.09.2022 and all subsequent orders, vide which non-bailable warrant of arrest against him.

5. On the other hand, Ms. A. Begum, learned Addl. Public Prosecutor submits that the conduct of the petitioner is not at all satisfactory and therefore, the learned Court below has rightly issued non-bailable warrant of arrest against him.
6. Having heard the learned Advocates of both sides, I have gone through the petition and the documents placed on record.
7. It appears that the learned Court below has issued non-bailable warrant of arrest against the petitioner vide impugned order dated 30.09.2022, as he remained absent on that day without taking any steps. It also appears that on a previous date i.e. 20.07.2022, the petitioner remained absent and a petition, No. 2374/2022, was filed on that day and the same was allowed by the learned Court below fixing the next date on 30.09.2022.
8. It is the categorical statement of the learned counsel for the petitioner that the date, i.e. 30.09.2022, could not be communicated to the petitioner, for which he could not appear before the learned Court below. The learned counsel for the petitioner further submits that the matter has amicably been settled between the parties, and therefore, the witnesses present on the previous dates also could not be examined by the learned Court below.
9. Since the petitioner is ready to face trial and undertakes to appear before the learned Court below on each and every date, this Court is inclined to dispose of this petition by directing the petitioner to appear before the learned Court below on or before 23.02.2024, and to apply for regular bail or to allow him on previous bail, and in the event of filing such application, the learned Court below shall consider the same, in accordance with law.
10. Till then, the non-bailable warrant of arrest issued against the petitioner vide impugned order dated 30.09.2022, and all subsequent orders, shall be kept

in abeyance.

11. In terms of the above, this petition stands disposed of at the motion stage itself.

JUDGE

Comparing Assistant