

GAHC010025492024



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

Case No. : Crl.Pet./139/2024

RAYHAN UDDIN @ REHAN UDDIN
S/O LATE MOIN UDDIN
R/O VILL- MOSKIPUR (MALUA)
P.OMALUA, P.S. BADARPUR
DIST. KARIMGANJ, ASSAM

VERSUS

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

2:TAJAMUL ALI
S/O LATE ABDUL AZIZ
R/O VILL- SERALIPUR
P.O. BHANGA BAZAR
P.S. BADARPUR
DIST. KARIMGANJ
ASSA

Advocate for the Petitioner : MR. A B T HAQUE

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 09.02.2024

Heard Mr. A. B. T. Haque, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 482 of the Code of Criminal Procedure, 1973 praying for setting aside and quashing the impugned order dated 24.05.2023, passed by the learned Sessions Judge, Karimganj in Special Sessions Case No. 34/2015, under Sections 366(A)/354/34 of the Indian Penal Code and Section 8 of the POCSO Act, and the subsequent orders issuing NBWA, warrant of proclamation and warrant of attachment against the petitioner.

It is submitted by Mr. Haque, learned counsel for the petitioner, that the accused was regularly appearing before the Court of learned Sessions Judge, Karimganj and on 10.01.2020, the statement of the accused/petitioner was also recorded under Section 313 Cr.P.C. and the case was fixed for argument on 12.02.2020. But, thereafter, he could not appear before the Court due to Covid-19 pandemic and to earn his livelihood, he had to shift another District. But he will now appear before the Court as and when the date is fixed and will abide by any conditions imposed on him if he is allowed to remain on previous bail.

In this context, Mr. Borthakur, learned Additional Public Prosecutor, has submitted that from the order annexed along with the petition, it is seen that the petitioner was appearing before the learned Court below till the date of argument, which was fixed on 12.02.2020, and thereafter, he remained absent and absconded and for which, he could not be arrested or traced out by the police and accordingly, the Court had to issue the proclamation against him in a daily local newspaper. Thus, it can be presumed that there is every chance of absconding of the accused/petitioner if he is allowed to remain on bail. However, Mr. Borthakur has submitted that the petitioner may be directed to appear before the learned Court below within a period of 15 (fifteen) days from today.

After hearing the submissions made by the learned counsels for both sides and on perusal of the order passed by the learned Sessions Judge, Karimganj, it is seen that the accused was regularly appearing before the learned Court below since 10.01.2020, but he failed to appear before the Court since 12.02.2020, when the date was fixed for argument, and since long 3 (three) years, he was absconding and for which, the learned Court below had to issue NBWA along with proclamation against the present accused/petitioner.

However, considering the entire aspects of the case, previous conduct of the accused, I hereby direct the accused/petitioner to appear before the learned Court below within 15 (fifteen) days from the date of order seeking regular bail, which will be considered by the learned Court below in accordance with law. However, till 15 (fifteen) days, the order of NBWA and proclamation issued against the petitioner shall remain stayed.

In terms of above, this criminal petition stands disposed of.

JUDGE

Comparing Assistant