

GAHC010039612024



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

Case No. : Crl.Rev.P./70/2024

JAMAL BADSHA @ JAMAL BADSHA MANDAL
S/O LATE GAFUR ALI MANDAL
R/O VILL- MADHUFAL
P.O. BARJANA
P.S. ABHAYAPURI
DIST. KAMRUP, ASSAM.

VERSUS

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

2:SUFIYA KHATUN
W/O ABDUL JOLIL
R/O LOTIBAND
PART-II

P.S. ABHAYAPURI
DIST. BONGAIGAO

Advocate for the Petitioner : MR. A K AZAD

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 01.03.2024

Heard Mr. AK Azad, learned counsel for the petitioner and Ms. A. Ahmed, learned Addl.

Public Prosecutor for the State respondent No. 1.

This is an application under Sections 397/ 401 Cr.P.C. read with Section 482 Cr.P.C., filed by the petitioner, namely Jamal Badsha @ Jamal Badsha Mandal for setting aside and quashing the impugned order dated 04.01.2024 whereby the learned Special Judge, North Salmara, Abhayapur had issued NBWA against the accused/ petitioner in connection with Special (P) Case No. 02/ 2024 under Sections 366/ 376 IPC read with Section 6 of the POCSO Act arising out of Abhayapur P.S. Case No. 432/2023 under Sections 366/325/ 376/ 34 IPC, read with Section 6 of the POCSO Act.

Heard both sides.

Perused the materials on record.

It is submitted by Mr. Azad, the learned counsel for the petitioner that the accused petitioner was shown absconder in the charge sheet. However, without issuing any notice, NBWA was issued against the accused/ petitioner on the very first day of the case and the petitioner is apprehending arrest in connection with the said case. Hence, the present revision petition has been filed by the petitioner praying for allowing him to go on bail and for setting aside or quashing the impugned order dated 04.01.2024 referred to above. He further submits that the accused/ petitioner is ready and willing to cooperate with the trial in each and every date and to contest the case, if he is allowed to go on bail by setting aside and quashing the impugned order, passed by the learned trial court.

In this context, Ms. Ahmed, the learned Addl. PP has submitted that the notice may be issued to the respondent No. 2 as the matter is related to the POCSO Act.

Considering the submissions of the learned counsel for the parties and materials available on record, it is seen that the petitioner was shown as an absconder in the charge sheet and he could not be arrested during the investigation by the police. However, from the order sheets of the trial court, it is seen that NBWA was issued against the accused/ petitioner after receipt of the charge sheet by the learned Special Judge, North Salmara, Abhayapuri. Accordingly, this Court is of the opinion that it is a fit case to direct the petitioner to appear before the trial court seeking regular bail.

Accordingly it is directed that the petitioner shall appear before the trial court within 15

(fifteen) days from today with a proper application for bail, which may be considered by the learned trial court in accordance with law. However, till 15 (fifteen) from today, no coercive action be taken against the petitioner and the execution of NBWA issued against the petitioner be stayed till next 15 (fifteen) days from today.

With the above directions and observation, the criminal revision petition stands disposed of.

JUDGE

Comparing Assistant