

GAHC010057032024



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

Case No. : Crl.Pet./303/2024

ALA UDDIN
S/O ABDUL LATIF, R/O VILL CHIRAKHOWA PT-V, P.O.-ALOMGANJ, P.S.-
FAKIRGANJ, DIST-DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:YOUSUF ALI
S/O ABDUL GAFUR
R/O VILL- CHIRAKHOWA PT-V
P.O.-ALOMGANJ
P.S.-FAKIRGANJ
DIST- DHUBRI
ASSAM
PIN-78333

Advocate for the Petitioner : MR. A ALI

Advocate for the Respondent : PP, ASSAM

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

25.04.2024

1. Heard Mr. A Ali, learned counsel for the petitioner. Also heard Mr. D Das, learned

Additional Public Prosecutor, Assam and Mr. AK Azad, learned counsel for the respondent No. 2.

2. The present application is filed under Section 482 Cr.P.C. with a prayer to set aside and quash the impugned orders dated 17.08.2019 and 09.02.2021 and all subsequent orders thereto passed by the learned CJM, Dhubri issuing non-bailable warrant of arrest and P&A in connection with GR case No. 4365/2014 arising out of Fakirganj PS case No. 277/2014.
3. The case of the petitioner is that the petitioner initially appeared before the learned trial court along with 20 numbers of accused and as he had some personal difficulty, a prayer was supposed to be made by his Lawyer to be represented by his Lawyer in the proceeding and, therefore, he was under mistaken belief that he was duly represented by his Lawyer. However, subsequently he came to learn that no such application was filed and accordingly, NBWA was issued.
4. The petitioner contends that he has no intention to avoid the trial and he is ready and willing to face the trial and henceforth he will regularly appear before the trial court when the matter is fixed. Therefore, the NBWA and P&A should be interfered.
5. The learned counsel for the respondent No. 2 submits that the present petitioner and the informant/ respondent No. 2 are relatives and they had already entered into compromise settling the dispute between them.
6. Be that as it may, in the considered opinion of this court the petitioner should approach the learned trial court first seeking recall of the NBWA as well as P&A issued earlier with the explanations as given in the present case and/ or any additional explanations that the petitioner can plead and on such application being filed, the learned trial court should consider the prayer made and explanations given in the given facts and circumstances of the present case and

take a decision thereon.

7. Accordingly, the present criminal petition stands disposed of with a direction to the petitioner to appear before the learned trial court below on or before next date fixed i.e. on or before 26.06.2024 with appropriate application before the learned trial court below.
8. On such application being filed, the learned trial court shall consider the same in the given facts of the present case and pass a reasoned order in this regard.
9. Till then, the NBWA and P&A issued against the petitioner shall remain suspended. Accordingly, the criminal petition stands disposed of.

JUDGE

Comparing Assistant