

GAHC010062552024



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

Case No. : Crl.Pet./348/2024

ATIKUR RAHMAN
S/O WAHADUR RAHMAN, VILL- MULAKUCHI, P.S.-BELSOR, DIST-
NALBARI (ASSAM), PIN-781303

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR K BHUYAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

28.03.2024

Heard Mr. K. Bhuyan, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 482 of the Code of Criminal Procedure, 1973, praying for re-calling the order dated 09.01.2024 passed by the learned Additional Session Judge No.1, Kamrup (M), Guwahati in Session Case No. 198/2018 against the petitioner.

It is submitted by the learned counsel for the petitioner, Mr. Bhuyan that the present petitioner appeared before the learned Court below. On 18.07.2023 a petition was filed on behalf of the petitioner for adjournment on health ground, which was allowed by the learned Trial Court and accordingly, the next date was fixed on 07.10.2023 for his appearance. But, the petitioner could not appear on the said date fixed due to some unavoidable circumstances and thereafter, the NBWA was issued against him by the Trial Court by passing an impugned order dated 09.01.2024. He further submits that the present petitioner is still ready and willing to appear before the learned Additional Session Judge No.1, Kamrup (M), Guwahati on each and every date to be fixed and 07.05.2024 is fixed for appearance, but, due to issuance of NBWA, the petitioner is not in a position to appear before the Trial Court. Thus, the petitioner was regularly appearing before the Court, but due to the above stated circumstances, he could not appear before the Court, but he is ready to face the trial and will regularly appear before the Court if the order of issuance of warrant is being suspended.

In this context, the learned Additional Public Prosecutor, Mr. Borthakur, has

submitted that as per the order annexed by the petitioner, it seems that the petitioner was regularly appearing before the Court and hence, considering the conduct of the petitioner, he may be directed to appear before the Court with a prayer for regular bail.

Considering the submissions made by the learned counsels for both sides and also considering the conduct of the accused/petitioner, I hereby direct the petitioner to appear before the Court of learned Additional Session Judge No.1, Kamrup (M), Guwahati within 10 (ten) days from today and to file a fresh petition for regular bail and upon filing of such petition, the learned Court below shall consider and dispose of the same in accordance with law. And, till then, the execution of NBWA, if any, issued against the petitioner, stands stayed/ suspended.

With the above observation and direction, this criminal petition stands disposed of.

JUDGE

Comparing Assistant