

GAHC010065002024



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

Case No. : Crl.Pet./353/2024

ALAUDDIN ALI
S/O RAFIQUE ANSARI, R/O PENSIONPARA, P.S.-CHANDMARI, GUWAHATI,
KAMRUP (M), ALSO R/A R/O HOUSE NO. 33, K.K. BHATTA PATH,
CHENIKUTHI, SILPUKHURI, NEAR PUB GUWAHATI, JATIA BIDYALAYA,
P.S.-CHANDMARI, GUWAHATI, KAMRUP (M), ASSAM, PIN-781003

VERSUS

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

2:MS. SALMA AHMED
OPPOSITE BLACK ROOF
NABYA GIRLS P.G. ROAD
PENSIONPARA
P.S.-CHANDMARI
GUWAHATI
KAMRUP (M)
ASSAM
PIN-78100

Advocate for the Petitioner : MR. R MAZUMDAR

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 18.04.2024

1. Heard Mr. R. Mazumdar, learned counsel for the petitioner and Ms. A. Begum, learned Addl. PP for the State respondent.
2. This is an application under Section 482 Cr.P.C., for recalling the warrant of arrest issued against the petitioner vide order dated 06.01.2024, passed by the learned Addl. Sessions Judge –cum- Special Judge POCSO, Kamrup (M), Guwahati in connection with Sessions Special Case No. 171/2023.
3. It is submitted by the learned counsel for the petitioner that the petitioner did not receive any summons after the charge sheet has been filed and during investigation, he was arrested and subsequently bail was granted to him. As per the learned trial court's orders dated 04.11.2023 and 06.01.2024, it is seen that though summons was issued but the same was not returned.
4. However, on 06.01.2024, the learned trial court issued NBWA against the petitioner without showing any reasons.
5. The leaned Addl. PP, on the other hand, has submitted that as the warrant of arrest has been issued against the petitioner, the petitioner shall appear before the learned trial Court and seek regular bail.
6. The order of the Trial Court reads as follows-

“6/1/24

PO is on leave.

Accused is absent.

Summons issued to the accused has not returned yet.

Issue fresh NBWA to the accused person and notice to the bailor.”

7. On perusal of the order dated 06.01.2024, it reveals that summons were issued to the accused/petitioner. Though the summons were not returned to the concerned court, however, warrant of arrest was issued against the petitioner. Nothing is reflected in the order why warrant of arrest was issued against the petitioner though summons were not duly served to the petitioner.

8. In view of the above, the petitioner is directed to appear before the learned trial Court on or before 10.05.2024 and in the event of filing any application seeking bail, the same shall be considered in accordance with law.

9. Till 10.05.2024, the warrant of arrest issued against the accused/petitioner shall be kept in abeyance.

10. The criminal petition stands disposed of.

....

JUDGE

Comparing Assistant