

GAHC010070282024



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

Case No. : Crl.Pet./391/2024

MD. AMINUL ALI
S/O LT. RAHAM ALI, R/O BAR ARIKATI (JADHAM SONTALI), P.S.-BOKO,
DIST- KAMRUP, ASSAM

VERSUS

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

2:BISWAJIT NATH
S/O LATE LAKHIRAM NATH
INSPECTOR
RPF/POST (PANDU)
KAMAKHYA
P.S.-JALUKBARI
DIST- KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. A PARAMANIK

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 05.04.2024

Heard Mr. A. Paramanik, learned counsel for the petitioner and Mr. BB Gogoi, learned Addl. PP for the opposite party No. 1.

This is an application under Section 482 of Cr.P.C. read with article 227 of the Constitution of India for setting aside and quashing the impugned order dated 03.05.2017 and the subsequent orders passed by the learned Sessions Judge, Kamrup (M), Guwahati in connection with Sessions Case No. 306/2016 (arising out of GR PS Case No. 108/2013) U/S 328/379/ 511 IPC added Section 22(a) of the NDPS Act whereby NBWA and P&A was issued against the petitioner.

It is submitted by the learned counsel for the petitioner that the petitioner has failed to appear before the trial court since 2017 when the case was fixed for recording of evidence of the witnesses. As such, non-bailable warrant of arrest (NBWA) and thereafter P&A was also issued against the accused/petitioner. He further submits that the petitioner went to Karnataka to earn his livelihood as such he was not in a position to attend the court. Considering the facts and circumstances of the case, warrant of arrest and P&A issued against the petitioner may be recalled.

The learned Addl. PP has submitted that as warrant of arrest and P&A were issued against the petitioner and as the case is pending for trial, the petitioner may approach before the trial court seeking regular bail.

I have perused the order dated 03/05/2017 from which it reveals that the case is pending in the court since 2017 and the petitioner had knowledge about the pendency of the case at evidence stage. Due to absence of the petitioner for such a long time, the proceeding of the case is delayed.

In view of the above, this criminal petition is disposed of with a direction

to the petitioner to surrender before the trial court and in the event of filing any application seeking bail, learned trial court shall consider the matter in accordance with law.

JUDGE

Comparing Assistant