

GAHC010073242024



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

Case No. : Crl.Rev.P./150/2024

ABDUL MALEK AND ANR
S/O LATE HASMAT ALI
R/O VILL- BECHAMARI, P.S. DHING,
DIST. NAGAON, ASSAM

2: NUR ZAMAL
S/O ABDUL MALEK
R/O VILL- BECHAMARI
P.S. DHING

DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MOTIUR RAHMAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

19.04.2024

Heard Mr. M. Raham, learned counsel for the petitioners and Mr. D. Das, learned Additional Public Prosecutor for the State respondent.

2. The instant application has been filed under Sections 697/401/482 of the Code of Criminal Procedure praying for passing an interim order staying/suspending the further proceeding in PRC Case No.1168/2021, under Sections 143/249/447/506/427/436 of the IPC arising out of Dhing P.S. Case No.415/2019 pending in the Court of SDJM, Nagaon and recalling the NBWA issued against the petitioners vide order dated 13.02.2024.

3. The learned counsel for the petitioners submits that the present petitioner No.1 is the father of the petitioner No.2 and that they were not aware of the pendency of the present case. During the investigation, the petitioners never received any notice from the Investigating Officer nor the Investigating Officer made any enquiry about them, and thus, they were not aware about the pendency of the case. The learned counsel for the petitioners further submitted that one Title Suit No.69/2017 is pending before the Court of the Civil Judge, Nagaon wherein the present petitioner No.1 is one of the plaintiffs and the case was instituted against the informant. The learned counsel for the petitioners further submitted that the present case is lodged against the petitioners on false and concocted allegations only because of the civil dispute that arose between the parties. However, the petitioners are ready and willing to appear before the learned Court below and contest the case if they are granted some interim protection. In this context, Mr. D. Das, learned Additional Public Prosecutor

for the State respondent submits that the petitioners have been shown as absconders in the charge sheet. However, they may be directed to appear before the learned Court below with an appropriate application for bail which would be considered by the learned Court below in accordance with law.

4. After hearing the submission made by the learned counsel from both sides and perusal of the materials on record including the Annexure enclosed to the petition, it is seen that after execution of bailable warrant against the present two accused petitioners, the NBWA were issued against them. However, considering the submission made by the learned counsel for the petitioner, I hereby direct the accused petitioners to appear before the learned Court below with an appropriate application for bail within 10 (ten) days from today, and in the event of filing such application for bail by the petitioners, the learned Court below shall consider the same in accordance with law and till then, the execution of NBWA issued against the petitioners stands stayed.

5. With the above observation, the instant petition stands disposed of.

JUDGE

Comparing Assistant