

GAHC010086542024



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

Case No. : Crl.Pet./512/2024

KAPIRUL ISLAM
S/O LT. ABDUL KARIM
R/OVILL- KUTKUTARVITA,P.S. BAGRIBARI, DIST. KOKRAJHAR, ASSAM,
PIN-783101

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR P K DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

08.05.2024

Heard Mr. P.K. Das, learned counsel for the petitioner and also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. Order dated 29.08.2023, passed by the learned Sub-Divisional Judicial Magistrate

(S), Kokrajhar, in PRC Case No.91/2022 is challenged in this petition, under Section 482 Cr.P.C. read with Article 227 of the Constitution of India. It is to be noted here that vide impugned order dated 29.08.2023, the learned Court below has declared the petitioner as proclaimed offender and directed to register a misc. case under Section 446 Cr.P.C. against the bailor Ajial Hoque.

3. Mr. Das, learned counsel for the petitioner submits that the petitioner is a daily wage earner and he had gone to Kerala for earning his livelihood and there was miscommunication between him and his counsel and therefore, his counsel could not take step in the learned Court below and therefore, non-bailable warrant of arrest was issued against him and subsequently, he has been declared as proclaimed offender, vide impugned order dated 29.08.2023. Mr. Das, further submits that the petitioner is ready to face trial and he also undertakes to appear before the learned Court below on each and every date and therefore, Mr. Das contended that a chance may be given to the petitioner.

4. On the other hand, Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam, submits that the impugned order suffers from no infirmity or illegality requiring any interference of this Court. However, since the petitioner is willing to appear before the learned Court below and undertakes to appear regularly and as such, a chance may be given to him.

5. Having considered the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the impugned order dated 29.08.2023.

6. It appears that vide order dated 29.08.2023, the learned Court below has declared the petitioner as proclaimed offender after accepting the report of the executing officer of proclamation and attachment and kept the warrant of arrest pending for execution in future. And in the given facts and circumstances on the record, the impugned order appears to be justified and reasonable. However, since the petitioner is willing to participate in the trial and undertakes to appear before the learned Court below on each and every date, this Court is inclined to allow this petition by directing the petitioner to

appear before the learned Court below on or before **24.05.2024** and to apply for regular bail and in the event of filing such an application, the learned Court below shall consider the same in accordance with law. Till then, the warrant of arrest and the proclamation issued against the petitioner shall be kept in abeyance.

7. In terms of above, this criminal petition stands disposed of.

Sd/- Robin Phukan
JUDGE

Comparing Assistant