

GAHC010090922024



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

Case No. : Crl.Pet./538/2024

RAJIV KAIN
S/O SRI SUBHAS CHAND, MANAGING DIRECTOR, SARV KAIN
INNOVATIONS PVT LTD., A-64, SECTOR-57, NOIDA, GAUTOM BUDDHA
NAGAR, UTTAR PRADESH-201301

VERSUS

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

2:JAYANTA TALUKDAR
PROPRIETOR OF M/S BRITTANTA UDYOG
HOUSE NO. 21
PUB SARANIA ROAD
CHANDMARI
KAMRUP (M)
ASSAM
PIN-78100

Advocate for the Petitioner : MR. FIRUZ KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

10.05.2024

Heard Mr. F. Khan, learned counsel for the petitioner and Mr. B.B. Gogoi, learned Additional Public Prosecutor for the State respondent.

2. In this petition, under Section 482 of the Cr.P.C., the petitioner has put to challenge the correctness or otherwise of the order dated 11.01.2024, passed in C.R. Case No. 5108/2022, pending in the court of Judicial Magistrate First Class, Kamrup (M) at Guwahati.

3. It is to be noted here that vide order dated 11.01.2024, the learned court below has issued Non-Bailable Warrant of Arrest (NBWA) against the petitioner.

4. Mr. Khan, learned counsel for the petitioner submits that the C.R. Case No. 5108/2022, was instituted by the respondent No. 2 Sri Jayanta Talukdar and in the said case the learned court below having taken cognizance of the offences, issued process to the petitioner and the petitioner through his counsel appeared before the learned court below on 22.02.2023 and 11.04.2023, but, thereafter, he could not contact his lawyer, for which neither he could appear before the learned court below nor his counsel and for which, the learned court below vide order dated 11.01.2024, has issued NBWA against the petitioner. Mr. Khan further submits that the petitioner is ready to face the trial and undertakes to appear before the learned court below on each and every date and the next date is fixed on 01.06.2024 and till then, Mr. Khan contended to keep the NBWA issued against the petitioner, in abeyance.

5. On the other hand, Mr. Gogoi, learned Additional Public Prosecutor submits that this is a private complaint case and the State is a formal party and he has nothing to submit in this case.

6. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record and also perused the impugned order dated 11.01.2024, passed in C.R. Case No. 5108/2022, pending in the court of Judicial Magistrate First Class, Kamrup (M) at Guwahati.

7. It appears that as the petitioner remained absent on 11.04.2024, without any step, the learned court below has rightly issued NBWA against the petitioner and as such, no fault can be found with the impugned order dated 11.01.2024.

8. However, since the petitioner undertakes to face the trial and to appear before the learned court below on each and every date, this Court is of the view that a chance may be given to him.

9. Accordingly, this Court is inclined to dispose of this petition by directing the petitioner to appear before the learned court below on the date fixed 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.

10. Till then, the NBWA issued against the petitioner, shall be kept in abeyance.

11. In terms of above, this Criminal Petition stands disposed of, at this motion stage itself.

JUDGE

Comparing Assistant