

GAHC010091782024



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

Case No. : Crl.Pet./542/2024

KUSHAL CH. BORO
S/O LATE HARENDRA CHANDRA BORO
VILL- NAKARAPARA, H/NO.12, P.S. BAISTHA, DIST. KAMRUP (M),
GUWAHATI.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR. FIRUZ KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 13.05.2024

Heard Mr. F. Khan, learned counsel for the petitioner. Also heard Mrs. A. Begum, learned Additonal Public Prosecutor for the State.

This is an application under Section 482 Cr.P.C., 1973 for quashing of the impugned order dated 09.05.2022, 16.08.2022, 17.12.2022, 03.05.2023, 30.08.2023 and 01.02.2024 passed in PRC No.980/2021, pending in the Court of Chief Judicial Magistrate, Kamrup(M), Guwahati, whereby NBWA was issued against the petitioner.

It is submitted by the learned counsel for the petitioner that during the stage of enquiry, the accused petitioner was in custody and he was released on default bail and after filing of the charge-

sheet, he never received any summon and hence, he could not appear before the Court below. However, after coming to know about the issuance of NBWA he appeared before this Court with the petition for quashing of the order dated 09.05.2022, 16.08.2022, 17.12.2022, 03.05.2023, 30.08.2023 and 01.02.2024, whereby the Court below issued NBWA against him. However, he submits that he is ready and willing to appear before the Court below and to context the case if the issuance of NBWA is kept in abeyance by giving him a chance to appear before the Court below on the next date fixed.

Mrs. A. Begum, learned Additional Public Prosecutor in this regard submits that the petitioner may be allowed to appear before the Court below with an appropriate application for bail.

I have heard the submissions made by the learned counsel for both sides and also perused the case record and the orders annexed along with the petition. It reveals from the order-sheet that after taking cognizance of the case, summons were issued to the accused and since then due to outbreak of corona and as per the notification of this Court, the case was adjourned and subsequently on 02.07.2021 the case was again put up as per the order of this Court and on the next date was fixed on 07.10.2021. On 07.10.2021, it seems that the Court again issued summons to the accused persons fixing the date on 25.01.2022. As 25.01.2022 was a holiday, the record was put up on 27.01.2022 and the next date was fixed on 09.05.2022. However, on 09.05.2022 without recording any order of service of summon to the accused petitioner, the learned Court issued NBWA to the accused petitioner and in the subsequent date also the NBWA was issued to him.

Thus it is seen that without recording any order of service of summon to the accused petitioner the NBWA was issued to the petitioner.

Accordingly, I find it proper to allow the accused petitioner to appear before the Court below for bail which may be considered in accordance with law and accordingly, the issuance of NBWA to the accused petitioner vide order dated 09.05.2022, 16.08.2022, 17.12.2022, 03.05.2023, 30.08.2023 and 01.02.2024 in PRC Case No.980/2021 pending in the Court of Additional Chief Judicial Magistrate, Kamrup(M), Guwahati is hereby suspended till **29.06.2024** by directing the accused petitioner to appear before the Court below on or before 29.06.2024 with appropriate application for bail.

With the above direction and observation, the petition stands disposed of.

JUDGE

Comparing Assistant