

GAHC010105772024



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

Case No. : Crl.Pet./614/2024

ARUN CHANDRA SAIKIA
S/O LATE PREMDHAR SAIKIA
R/O VILL- PACHATIA, WARD NO. 2,
P.S. AND P.O. MORIGAON,
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR D K DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 30.05.2024

Heard Mr. D.K. Das, learned counsel for the petitioner and Mr. B. Sarma, learned Addl. Public Prosecutor for the State respondent.

2. This is an application under Section 482 Cr.P.C. read with Section 397 of the Cr.P.C., against the impugned orders dated 01.03.2024 and 03.04.2024,

passed by the learned Chief Judicial Magistrate, Nagaon in PRC No. 36/2014 whereby the learned Magistrate has issued NBWA and P/A against the petitioner.

3. It is submitted by the learned counsel for the petitioner that due to some long treatment for various ailments of the petitioner such as low back pain, arthritis, blood sugar and hypertension, the doctor advised him to take complete bed rest. As a result of which he could not appear before the trial court on 01.03.2024 and 03.04.2024 and on the subsequent dates, for which, NBWA and P/A were issued against him. The learned counsel for the petitioner prays to recall the warrant of arrest and P/A.

4. The learned Addl. P.P. on the other hand, submits that the case is pending since 2014 and the petitioner is irregular in attending the court and prays for dismissal of the prayer of the petitioner.

5. I have considered the submission of the learned counsel for the parties. I have also perused the orders dated 01.03.2024 and 03.04.2024. The orders dated 01.03.2024 and 03.04.2024 read as follows:

“ 01.03.2024.

Today the case was fixed for evidence.

Accordingly, summon was issued and PW Pankaj Jyoti Bora appeared before the Court after getting summons. But accused Arun Saikia @ Arun Ch Saikia is absent with steps.

It is stated in the petition vide No. 803/24 the petitioner submits before the court that the accused could not appear today due to his illness. But in support of his illness no document is furnished. Record also reveals that on 12.10.2023 he was granted previous bail with cost of Rs. 2000/-. It is also revealed from the record that he was absent in the court since 2016 with steps. At that stage the case was fixed for evidence. Thereafter on 03.07.2018 warrant was issued against him for absence without steps.

It seems from the record that he has intentionally absent in the court. Now his absence on today is not considered. Prayer is rejected and issue W/A.

Also, seen petition vide No. 804/2024 filed on behalf of engaged advocate praying for adjournment today.

Heard. Prayer is rejected as W/A is issued against the accused.

The PW present today is allowed to go on P.R. bond and asked to be present after getting summons."

"03.04.2024.

Accused Arun Ch. Saikia is absent.

W/A issued earlier has returned with report.

It is reported by the E/O that the accused was not available at his locality. Also seen the report of village headman.

Considering the above, issue P/A against the accused person.

PW Pankaj Jyoti Bora appeared today is released on P.R. bond.

Fixing 28.05.2024 for appearance. "

6. Perusal of the aforesaid orders dated 01.04.2024 and 03.04.2024, it reveals that the petitioner is very much irregular in attending court in spite of several direction was given to him to be present in the court but he did not respond the direction of the court. On 01.03.2024, one witness was also present and he was not examined due to absence of the petitioner as a result of which, a petition filed by the petitioner, having considered the earlier conduct of the petitioner was rejected and warrant of arrest and P/A was issued. I do not find any infirmity in the orders dated 01.03.2024 and 03.04.2024. Hence, prayer of the petitioner is rejected.

7. The petitioner is directed to surrender before the trial Court within ten days from today and in the event of filing any bail application, the same shall be considered by the trial Court in accordance with law.

8. The criminal petition is disposed of.

JUDGE

Comparing Assistant