

GAHC010116972024



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

Case No. : Crl.Pet./678/2024

PRADIP SINHA
S/O LATE BRAJADHAN SINHA, R/O VILL- BHAKATPUR, P.O.-BHAKATPUR,
P.S.-SILCHAR, DIST- CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A R BHUYAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

16.07.2024

Heard Mr. A. R. Bhuyan, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

This application filed under Section 482 read with Sections 397/401 of the Code of Criminal Procedure, 1973, praying for quashing of the Non-Bailable Warrant of Arrest order issued vide Order dated 28.05.2024 passed by the learned Additional Chief Judicial Magistrate, Cachar, Silchar in N.I Case No.24/2018.

It is submitted by Mr. Bhuyan, learned counsel for the petitioner that after receiving the summons, the accused/petitioner regularly appeared before the learned Trial Court and he accordingly prayed for bail before the said Court, which was allowed vide order dated 21.10.2019 and the next date was fixed on 08.11.2019. Thereafter, the petitioner remained absent on subsequent dates. He further submitted that the petitioner was not in a position to appear before the learned Trial Court due to ongoing compromise talks between the parties in the month of November and December' 2019; sudden demise of his father on 07.02.2020; Covid-19 pandemic and due to his illness. However, on 28.02.2022, the learned Trial Court rejected the adjournment prayer of the present petitioner and issued the NBWA against him without issuing any prior Bailable Warrant of Arrest (BWA) and subsequently on 28.05.2024, the Trial Court issued another NBWA against the present. The petitioner was regularly appearing before the Court, but due to the above stated circumstances, he could not appear before the Court, but he is ready to face the trial and will regularly appear before the Court if the order of issuance of warrant is being suspended.

In this context, the learned Additional Public Prosecutor, Mr. Sharma, has submitted that as per the order annexed by the petitioner, it seems that the petitioner was regularly appearing before the Court and hence, considering the conduct of the petitioner, one more chance may be given to the accused/petitioner to appear before the learned Trial Court.

After hearing the submissions made by the learned counsels for both sides, I have perused the Case Record and the Orders-Sheet submitted along with the petition which reveals that the accused/petitioner was regularly appearing before the Court personally or through his engaged counsel. It is an admitted fact that the accused/petitioner was allowed to go on bail by the learned Trial Court on 21.10.2019, however, from the order passed by the learned Additional Chief Judicial Magistrate, Cachar on 28.02.2022, it is seen that the accused/petitioner remained absent on several occasions which delayed the trial of the case and the case has been pending for recording of statement of defence since 12.03.2020.

However, considering the entire facts and circumstances of the case, I hereby direct the petitioner to appear before the Court of learned Additional Chief Judicial Magistrate, Cachar, Silchar, on 02.08.2024 and to file a fresh petition for regular bail and upon filing of such petition, the learned Court below shall consider and dispose of the same in accordance with law. And, till then, the execution of NBWA, issued against the petitioner, stands stayed/suspended.

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

JUDGE

Comparing Assistant