

GAHC010120952024



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

Case No. : Crl.Pet./741/2024

SONAULLAH MONDAL
S/O LATE KHOIMUDDIN MONDAL, R/O VILL- CHAKLA (BAUSATARY), P.S.-
LAKHIPUR, DIST- GOALPARA, ASSAM

VERSUS

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

2:KHADIJA KHATUN
D/O JEL HOQUE
R/O VILL- DAMRIBHASHA
P.O.-KATARIHARA
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-78333

Advocate for the Petitioner : MR. A RAHMAN

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 27.06.2024

Heard Mr. A. Rahman, learned counsel for the petitioner. Also heard Mr. M. P. Goswami, learned Additional Public Prosecutor for the State respondent No. 1.

This is an application under Section 482 of the Code of Criminal Procedure, 1973 *read with* Article 227 of the Constitution of India for setting aside and quashing the impugned order dated 30.07.2022 as well as the subsequent orders thereto, passed by the learned Additional Chief Judicial Magistrate, Goalpara in G.R. Case No. 1143/2017 (arising out of Lakhipur P.S. Case No. 224/2017, under Section 468(A) IPC), whereby the learned Additional Chief Judicial Magistrate issued warrant of arrest against the accused/petitioner.

It is submitted by Mr. A. Rahman, learned counsel for the petitioner, that the present accused/petitioner was regularly appearing before the learned Court below and the case was at the stage of evidence. But, on 30.07.2022, he could not appear before the learned Court below and for which, the warrant of arrest was issued against him. He was not aware about the issuance of warrant against him as he, being a daily labourer, had to go several places of Assam to earn his livelihood. However, he is ready and willing to appear before the learned Trial Court below and want to face the trial and accordingly prayed for a direction to allow him to remain on previous bail.

In this context, Mr. M. P. Goswami, learned Additional Public Prosecutor,

has submitted that the petitioner is absconding since the year 2022 and hence, he could not be allowed to remain on previous bail. However, he may be directed to appear before the learned Court below with an appropriate application for bail which may be considered in accordance with law.

Considering the submissions made by the learned counsels for both sides, it is seen that the accused/petitioner was earlier appearing before the learned Court below and the case was also fixed for evidence. But, since 30.07.2022, he remained absent. Further, from the order dated 26.12.2022 also, it is seen that the warrant issued against him was returned unserved as he was working at Jorhat. However, considering the entire facts and circumstances of this case, the petitioner is hereby directed to appear before the learned Trial Court below within 15 (fifteen) days from today with an appropriate application for bail, which may be considered in accordance with law.

Till then, the NBWA issued against the petitioner shall remain stayed/suspended.

The criminal petition stands disposed of in terms above.

JUDGE

Comparing Assistant