

GAHC010123382024



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

Case No. : Crl.Pet./717/2024

BEI TASSAR @ BEI TOSEN @ BEI TOSA
S/O LT. BEI EICHU, R/O PAROBASTI, P.S.-DULUNG MUKH (EARLIER LOWER
SUBANSIRI), DIST- KAMLE, ARUNACHAL PRADESH

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MS. S G BARUAH

Advocate for the Respondent : PP, ASSAM

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

16.07.2024

Heard Ms. S. G. Baruah, learned counsel for the petitioner. Also heard Mr. B. Sharma, learned Additional Public Prosecutor for the State respondent.

This application filed under Section 482 of the Code of Criminal Procedure, 1973 *read with* Article 227 of the Constitution of India praying for setting aside and quashing of the impugned order dated 23.12.2020 and subsequent orders dated 13.02.2024 and 02.04.2024 passed by the Court of Sessions Judge, Lakhimpur at North Lakhimpur in Sessions Case No.53(NL)/2015, whereby, Non-Bailable Warrant of Arrest was issued against the accused/petitioner and declared him as a proclaim absconder.

It is submitted by the learned counsel for the petitioner, Ms. Baruah, that the present petitioner was regularly appearing before the Court till 11.03.2020, and he was allowed to remain on previous bail vide order dated 06.04.2015, but, thereafter, he remained absent as the Court functioning was restricted due to Covid-19 pandemic and the presiding officer was availing roster duty and accordingly, his engaged counsel asked him to appear before the Trial Court as and when the Court functioning will be normalize. But, the petitioner was never informed by his engaged counsel regarding the functioning of the Court and thus, the petitioner could not appear before the Trial Court as he was not aware about the date fixed by the Court. He further submitted that the petitioner is about 70 years old and he resides in remote village at Parobasti, Kamle District,

Arunachal Pradesh, and inspite of his old age, he appeared before the Trial Court.

She further submitted that till 11.03.2020, out of 10 charge-sheet witnesses, 6 witnesses were already examined and 1 charge-sheeted witness was allowed to return back without examining vide order dated 21.08.2019 and remaining 3 witnesses are yet to be examined by the learned Trial Court. It is submitted that the NBWA was issued against the petitioner vide order dated 23.12.2020 and vide subsequent orders dated 13.02.2024 and 02.04.2024, the petitioner was declared as a proclaim absconder. 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 till 11.03.2020 and hence, considering the conduct of the petitioner, he may be directed to appear before the Court with a prayer for regular bail.

Considering the submissions made by the learned counsels for both sides and also considering the conduct of the accused/petitioner, who was regularly appearing before the Trial Court and even during the period of Covid-19, he appeared before the said Court on 2/3 occasions. Subsequently, vide Orders dated 13.02.2024 and 02.04.2024, the petitioner was declared as a proclaim absconder by the learned Trial Court. Thus, considering the entire facts and circumstances of the case, I hereby direct the petitioner to appear before the

Court of Sessions Judge, Lakhimpur at North Lakhimpur, on 18.07.2024 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 revision petition stands disposed of.

JUDGE

Comparing Assistant