

GAHC010124662024



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

Case No. : Crl.Pet./721/2024

SULTAN ALI AND 2 ORS
S/O LATE TAMIR UDDIN, VILL- KUKUARY, P.O.-KURANI, P.S.-MAYONG,
DIST-MORIGAON, ASSAM

2: ABDUL HASEN @ HASEN ALI
S/O ROHIT MIA
VILL- 1 NO KHOLABHUIYAN
P.O.-KURANI
P.S.-MAYONG
DIST- MORIGAON
ASSAM

3: SOHIDUL ISLAM
S/O LATE TAHAR UDDIN
VILL- KUKUARY
P.O.-KURANI
P.S.-MAYONG
DIST-MORIGAON
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR M J QUADIR

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 24.06.2024

- 1.** Heard Mr. M. J. Quadir, learned counsel for the petitioners. Also heard Ms. S. Jahan, learned Additional Public Prosecutor for the State Respondent.
- 2.** This Criminal Petition has been registered on filing of an application under Section 482 of the Code of Criminal Procedure, Code 1973, by the petitioners, namely, (1) Sultan Ali, (2) Abdul Hasen @ Hasen Ali, and (3) Sohikul Islam, impugning the order dated 08.03.2016 and subsequent orders passed by the learned Additional Chief Judicial Magistrate, Morigaon in G. R. Case No. 2260/2014 whereby non-bailable warrant of arrest issued against the above named petitioners.
- 3.** The learned counsel for the petitioners has submitted that in the instant case, the charge sheet was laid against eight accused persons including the present petitioners. The name of the petitioners were shown as absconder in the charge sheet. However, the Trial Court had issued summons to them.
- 4.** The learned counsel for the petitioners has submitted that on the last occasion when the summon were issued to the above named petitioners was on 20.11.2015, however, thereafter, on 08.03.2016, without verifying due service of the summons issued to the present petitioners, learned Additional Chief Judicial Magistrate, Morigaon issued non-bailable warrant against the above named petitioner, and thereafter, in due course also issued orders of proclamation

proclaiming them as absconder and orders of attachment of their properties.

5. The learned counsel for the petitioners has submitted that as no summons were served on the present petitioners, they were not aware about the pendency of the case against them before the Court of learned Additional Chief Judicial Magistrate, Morigaon and they are ready to cooperate in the trial and appear before the Trial Court on the next date fixed on 25.06.2024.

6. Learned Additional Public Prosecutor also submits that the record shows that without verifying due service of summons on the above named petitioners, the non-bailable warrant of arrest were issued as appears from the records, which are annexed along with the Criminal Petition.

7. The Trial Court ought to have ensure due service of summons issued to the petitioners before issuing non-bailable warrant to them.

8. Under such circumstances, this Court disposes of this Criminal Petition with a direction to the above named petitioners to appear before the Trial Court on the next date fixed i.e. 25.06.2024 and to facilitate such an appearance before the Trial Court the operation of non-bailable warrant against the above named petitioners shall remain suspended till that date.

9. On his appearance before the learned Additional Chief Judicial Magistrate, Morigaon, the petitioners may pray for any relief to which he is legally entitled.

10. With the above observations, this Criminal Petition is disposed of.

JUDGE

Comparing Assistant