

GAHC010126172024



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

Case No. : Crl.Pet./728/2024

NIZAMUDDIN
S/O KHALIL UDDIN, RESIDENT OF JAGADISHPUR PART V, PO
JAGADISHPUR, PS KATIGORAH, DIST CACHAR ASSAM 788805

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : MR S DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 25.06.2024

Heard Mr. D. J. Haloi, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 482 of the Code of Criminal Procedure, 1973 for quashing the orders dated 09.02.2024, 04.03.2024, 06.04.2024 & 18.06.2024, passed by the learned Sub-Divisional Judicial Magistrate, Kaliabor, Nagaon in PRC Case No. 399/2023, whereby the learned Court below issued NBWA against the petitioner in a proceeding drawn under Section 379/411 of the Indian Penal Code *read with* Section 11 (1)(a)(d)(c) of the Prevention of Cruelty to animal Act, 1960 *read with* Section 13 (1) of the Assam Cattle Preservation Act, 2021.

Mr. Haloi, learned counsel for the petitioner, submitted that the accused/petitioner is ready and willing to appear before the learned Court below, however he was not aware about the issuance of summons issued against him as he remained outside for his business purpose and if summons was received by his family members, the same was not within his knowledge. However, coming to know about the issuance of NBWA issued against him, he immediately applied for certified copy and filed the present petition. He is a permanent resident of his addressed locality and he will regularly appear before the learned Court below and contest the case if he is granted with some protection.

In this context, Mr. Baruah, learned Additional Public Prosecutor, has submitted that from the Order Sheets annexed along with the petition, it is seen that the summon was duly served on the petitioner, but in spite of the service of summon, he remained absent and did not appear before the learned Trial Court below. Accordingly, he submitted that the direction may be given to the petitioner to appear before the learned Court below with an appropriate

application for bail.

Considering the submissions made by the learned counsels for both sides and also considering the other aspects of the case, I hereby direct the present petitioner to appear before the learned Court below within 10 (ten) days from the date of order with an appropriate application for bail, which shall be considered by the learned Court below in accordance with law.

However, till his appearance before the learned Court below within 10 (ten) days, the NBWA issued against the petitioner stands stayed/suspended.

In terms of above, this criminal petition stands disposed of.

JUDGE

Comparing Assistant