

GAHC010126332024



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

Case No. : Crl.Pet./744/2024

MD. IMRAN HUSSAIN @ MAINU
S/O MD. ABDUL KALAM, R/O KACHARI PAM, BHUMURAGURI, DIST-
SONITPUR, P.S.-TEZPUR

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. R B SAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 17.07.2024

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

This is an application under Section 482 of the Code of Criminal Procedure, 1973 for setting aside and quashing the impugned order dated 09.02.2024, passed by the learned Special Judge, Sonitpur, Tezpur, Assam in Special NDPS Case No. 41/2022.

In pursuant to the Order dated 27.06.2024, an additional affidavit has been filed by the accused/petitioner stating that his signature may differ as on the date of discharge he was still under alcoholic withdrawal symptoms and his body as well as hands were shaking and hence, there may be some difference while taking signature in discharge certificate in comparison to the affidavit submitted by him in the present petition.

It is submitted by Mr. Kakoti, learned counsel for the petitioner, that the accused/petitioner was earlier allowed to go on bail vide Order dated 11.02.2022 and after filing of the Charge-Sheet, he appeared before the learned Court below on 18.03.2023 wherein also, he was allowed to remain on previous bail. But, thereafter, he remain absent on some occasion before the Court as he was admitted in rehab centre as he was an alcoholic patient. Thereafter on 09.02.2024, he could not appear before the learned Trial Court below due to his illness as he was admitted in rehab centre and accordingly, on the said date, the NBWA was issued against him and also on other subsequent dates, the NBWAs were issued against him. However, he is ready and willing to appear before the learned Court below and will face the trial. However, he is under apprehension of arrest as the NBWA has already been issued against him and hence, the present petition has been filed praying for recalling the NBWA issued against

him.

In this context, Mr. Sharma, learned Additional Public Prosecutor, has submitted that the present petitioner may be given one chance 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, I have perused the case record and the order sheets of the learned Court below filed along with the petition. It is a fact that the present accused/petitioner was earlier granted with bail and he was also allowed to remain on previous bail after filing of the Charge-Sheet. But, considering his absence since 09.11.2023, NBWA was issued against the present petitioner on 09.02.2024. From his discharge report also, it is seen that he was admitted in the rehab centre on 01.02.2024 and was discharged on 25.03.2024. But there is no other report or medical certificate annexed along with the petition as to why even after his release from the rehab centre, he was not appearing before the learned Trial Court below on the date fixed.

However, considering the entire facts and circumstances of the case and also considering the fact that the accused /petitioner was admitted in rehab centre on 01.02.2024 and was discharge only on 25.03.2024, this Court is of the view that one more chance may be given to the present accused/petitioner to appear before the learned Court below. Accordingly, the petitioner is hereby directed to appear before the learned Court below within 10 (ten) days from today with an appropriate application for bail which shall be considered by the

learned Special Judge, Sonitpur, Tezpur, Assam in accordance with law. And, till then, the NBWA issued against the present petitioner shall remain suspended.

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

JUDGE

Comparing Assistant