

GAHC010126352024



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

Case No. : Crl.Pet./747/2024

MD. ZIYAO RHMAN @ MD. JIAUR RAHMAN
S/O MD. NIZAMUDDIN, R/O NEAR LEIHAOKHONG MAYAI, MASJID, P.O.-
LILONG, DIST- THOUBAL, MANIPUR, PIN-795130

VERSUS

UNION OF INDIA
REPRESENTED BY STANDING COUNSEL, CUSTOM

Advocate for the Petitioner : MR B M DEKA

Advocate for the Respondent : SC, NCB

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 27-06-2024

- 1.** Heard Mr. B. M. Deka, learned counsel for the petitioner. Also heard Ms. P. S. Chakraborty, learned Special Public Prosecutor for the Customs Department.

- 2.** This application under Section 482 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, *Md. Ziyao Rhman @ Md. Jiaur Rahman* impugning the order dated 06.08.2016 and 26.05.2017 and all subsequent orders whereby the learned Additional Chief Judicial Magistrate, Nalbari, had issued

the Non-bailable Warrant of Arrest against the present petitioner and also issued orders for proclaiming the petitioner as an absconder and for attachment of his properties.

3. The learned counsel for the petitioner submits that earlier he appeared before the learned Additional Chief Judicial Magistrate, Nalbari where the Customs Case No. 16/CL/IMP/AS/GAU/2014-15 registered as C.R. Case No. 246/2015, however, he submits that as the petitioner is the resident of State of Manipur and he lost contact with his engaged counsel. It is also submitted by the learned counsel for the petitioners that the default by the petitioner was not willful default and he is ready to face the trial subject to any conditions imposed by this Court.

4. On the other hand, learned Special Public Prosecutor, Customs Department submits that bare perusal of the record would show that the conduct of the petitioner is not good and he has defaulted in appearing before the Court since the year 2016.

5. I have considered the submissions made by learned counsel for both the sides.

6. Though, the conduct of the petitioner is not good so as to get a favourable order from this Court, however considering the fact that the petitioner is a resident of Manipur and considering the submissions made by the learned counsel for the petitioner, he is allowed to appear before the Trial Court i.e., the Court of learned Additional Chief Judicial Magistrate, Nalbari on **20th July, 2024**, subject to payment of cost of Rs.5,000/- to be deposited in the cost fund account of the District Legal Services Authority, Nalbari. The petitioner shall deposit the said cost before the Secretary, District Legal Services Authority, Nalbari and after taking

receipt thereof shall appear before the Court of learned Additional Chief Judicial Magistrate, Nalbari in C.R. Case No. 246/2015.

7. To facilitate such appearance by the present petitioner, the Non-bailable Warrant of Arrest issued against the present petitioner by the Court of learned Additional Chief Judicial Magistrate, Nalbari shall be suspended till the next date i.e., 20.07.2024. On his appearance before the learned Additional Chief Judicial Magistrate, Nalbari, the petitioner may pray for any relief before the said Court to which he is legally entitled to.

8. This criminal petition is accordingly disposed of.

JUDGE

Comparing Assistant