

GAHC010127152024



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

Case No. : Crl.Rev.P./247/2024

GOLAP HUSSAIN
S/O ABUL HUSSAIN, VILL- BARBALA, P.O.-BARBALA, P.S.-HOWLY, DIST-
BARPETA, ASSAM, PIN-781316

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:CHAN MAMUD @ CHAN MAHMUD SIKDAR
S/O SOBET ALI
VILL- BHULUKABRI
P.O.-JARABARI
P.S.-BARPETA
DIST- BARPETA
ASSAM
PIN-78131

Advocate for the Petitioner : MR. D GOGOI

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 17.07.2024

Heard Mr. J. Abbas, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application under Sections 397 and 401 *read with* Section 482 of the Code of Criminal Procedure, 1973 for setting aside and quashing the impugned order dated 22.05.2024, passed by the learned Chief Judicial Magistrate, Barpeta in G.R. Case No. 4368/2016, arising out of Barpeta P.S. Case No. 1622/2016, under Sections 366/34 of the Indian Penal, as well as the Charge-Sheet No. 915/2017, dated 31.12.2017.

It is submitted by Mr. Abbas, learned counsel for the petitioner, that the petitioner, only after receiving the summon from the learned Court below, came to know that he was shown as an absconder in the Charge-Sheet. However, during the pendency of this case, he got married with the victim girl and at present, they are living happily as husband and wife and they have 2 (two) children out of their wedlock. He further submitted that due to personal inconvenience, he could not appear before the learned Trial Court below even after receiving summon and considering his absence, the learned Court below issued NBWA against him and hence, there is an apprehension of being arrest in connection with this case and therefore, the present petition has been filed. However, he is ready and willing to appear before the learned Trial Court below and will face the trial, but in the event of his arrest, his family, specially the

victim and his 2 (two) minor children, will suffer. Accordingly, it is submitted that considering the entire facts and circumstances of this case, the accused/petitioner may be enlarged on bail.

In this context, Mr. Borthakur, learned Additional Public Prosecutor, has submitted that the case is of the year 2016 and the Charge-Sheet was filed in the year 2017 and the present petitioner has also received the summon in the year 2018, but since then, he was absconding and the present petition has been filed only in the year 2024 after a lapse of more than 5 (five) years. Accordingly, he submitted that the accused/petitioner may be directed to appear before the learned Court below with an appropriate application for bail, which may be considered in accordance with law.

After hearing the submissions made by the learned counsels for both sides, I have also perused the Order Sheets of the learned Court below filed along with the petition and it reveals that in spite of receiving summon from the Court, the accused/petitioner did not appear before the Court, though on 3 (three) occasion, after receiving the summon, he appear before the learned Trial Court below through his engaged counsel. Thus, it is seen that due to non-appearance of the petitioner, the case is pending since the year 2016 even after filing of the Charge-Sheet in the year 2017. However, considering the submission made by the learned counsel for the petitioner, I find it appropriate to direct the accused/petitioner to appear before the learned Trial Court below within 10 (ten) days from today with an appropriate application for bail which shall be considered in accordance with law. And, till then, the NBWA issued against the present petitioner shall remain suspended.

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

JUDGE

Comparing Assistant