

GAHC010144482024



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

Case No. : Crl.Pet./903/2024

MD. NUR AMIN @ NURUL AMIN
S/O ABDUL RAHIM
R/O VILL- MAGURMARI
P.O. SATLUNGA
P.S. KAMPUR
DIST. NAGAON, ASSAM
PIN NO. 782426

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR. R C DAS, A JUBARIA, MR. H RAHMAN, MR S HUSSAIN

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

28/08/2024

Heard Mr. R C Das, learned counsel for the petitioner and Mr. B Sarma, learned Additional Public Prosecutor, Assam for the State respondent No. 1.

2. The petitioner by filing this criminal petition is praying for setting aside and quashing/recalling the order of NBWA issued against him by the learned Additional Chief Judicial Magistrate, Nagaon in

PRC No. 693/2017 arising out of Kachua P.S. Case No. 158/2014 registered under Sections 147/148/149/448/120(B)/302/326 IPC read with Section 27 of the Arms Act.

3. It is stated that though the petitioner appeared before the learned Magistrate in said PRC No. 693/2017 arising out of Kachua P.S. Case No. 158/2014 up to 04.06.2018, but subsequently, he could not appear before the learned Magistrate due to some misinformation between him and his lawyer due to which he remained absent without taking any steps in the matter for which order of Non-Bailable Warrant of Arrest against the petitioner and two other co-accused in said PRC No. 693/2017 arising out of Kachua P.S. Case No. 158/2014 was issued for their appearance, fixing it on 03.09.2024.

4. It is submitted by Mr. Das, learned counsel for the petitioner that since the said PRC No. 693/2017 is now fixed on 03.09.2024 for appearance of the petitioner and as such, he is willing to appear before the learned Additional Chief Judicial Magistrate, Nagaon in the said PRC No. 693/2017 and to participate in its trial.

5. However, the petitioner apprehends that on his such appearance in the said case, because of the order of NBWA issued against him being in force, he shall be arrested and detained in custody in the said PRC No. 693/2017.

6. After hearing the learned counsels for the parties, this criminal petition is disposed of directing the petitioner, namely, Md. Nur Amin @ Nurul Amin, son of Abdul Rahim, to appear before the learned Additional Chief Judicial Magistrate, Nagaon **on 03.09.2024** in said PRC No. 693/2017 arising out of Kachua P.S. Case No. 158/2014.

7. In the event of his appearance before the learned Additional Chief Judicial Magistrate, Nagaon on 03.09.2024 and in the event of filing any bail application as well as application for recalling the order of NBWA issued against him in said PRC No. 693/2017 arising out of Kachua P.S. Case No. 158/2014, the concerned Magistrate, shall consider the same in accordance with law, securing the presence of the accused petitioner, in said PRC No. 693/2017 on its subsequent dates and during the trial of the said case.

8. Enabling the accused petitioner to appear on **03.09.2024** in said PRC No. 693/2017 before the learned Additional Chief Judicial Magistrate, Nagaon; it is directed that the order of NBWA passed earlier by the learned Magistrate, against the petitioner in said PRC No. 693/2017, shall not be given effect till 03.09.2024 only.

9. However, it is made clear that failure on the part of the petitioner to appear before the learned Additional Chief Judicial Magistrate, Nagaon on 03.09.2024 and thereafter, in the said PRC No. 693/2017, the learned Magistrate shall be at liberty to pass any such order, which it deems fit and necessary, securing the appearance of the petitioner in the said PRC case.

10. It is also made clear that the time for appearance of the petitioner in said PRC No. 693/2017 arising out of Kachua P.S. Case No. 158/2014 before the learned Additional Chief Judicial Magistrate, Nagaon shall not be extended beyond 03.09.2024 since the petitioner is fully aware of the next date of the said P.R. Case.

11. This criminal petition stands allowed to the extent above.

JUDGE

Comparing Assistant