

GAHC010204302024



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

Case No. : Crl.Pet./1224/2024

ZINNATUL ALI @ ZINNATUL ISLAM
S/O SAFIKUL ALI @ SAFIQL ISLAM
R/O VILL- KACHARIBORI
P.S. LAHARIGHAT
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
TO BE REP. BY THE PP, ASSAM

2:PHANI PATHAK
S/O RANTESWAR PATHAK
JOINT DIRECTOR OF HEALTH SERVICES
DIST. MORIGAON
ASSA

Advocate for the Petitioner : MR. A AHMED, MR A AHMED,U U KHAN,MR. M A
CHOUDHURY

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 01.10.2024

Heard Mr. A. Ahmed, learned counsel appearing for the petitioner. Also heard Mr. D. Das,

learned Additional Public Prosecutor for the state of Assam.

2. This is an application under Section 528 of the BNSS, 2023 challenging the order dated 29.08.2024 passed by the learned Additional Chief Judicial Magistrate, Morigaon, Assam in P.R.C. No. 189/2024 directing issue of non-bailable warrant of arrest against the petitioners.

3. The petitioner has been facing trial before the learned court below.

4. On 29.08.2024, the petitioner could not appear before the trial court because of his indisposition. His lawyer filed an application before the court below stating that the petitioner was suffering from diarrhea and therefore, he could not appear before the court below on that day. The trial court held that the offence alleged against the petitioner is a serious one and on that ground, the said application was rejected. The trial court directed that non-bailable warrant of arrest should be issued against the petitioner.

5. I have considered the submissions made by the learned counsels of both sides.

6. Without any deliberation, the impugned order dated 29.08.2024 passed by the learned Additional Chief Judicial Magistrate, Morigaon, Assam in P.R.C. No. 189/2024 is set aside and quashed.

7. The petitioner shall be allowed to remain on previous bail.

8. With the aforesaid direction, the present criminal petition stands disposed of.

JUDGE

Comparing Assistant