

GAHC010222272024



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

Case No. : Crl.Pet./1286/2024

JAMAL KHAN
S/O TOMEJ UDDIN KHAN,
RESIDENT OF VILLAGE GHORAMARA PATHER, PS CHHAYGAON, DIST
KAMRUP M ASSAM 781136

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : MR. S ALIM, MR. D ZAKARIA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

24.10.2024

1. Heard learned counsel Mr. S. Alim for the petitioner Jamal Khan.
2. This application has been filed by the petitioner under Section 528 of the BNSS read with Section 442/438 of the BNSS, 2023 challenging the impugned

order dated 20.08.2024 passed by the Court of learned Additional Sessions Judge No. 1, Kamrup (M), Guwahati in NDPS Case NO. 2698/2022 registered under Sections 22(b)/29 of the NDPS Act issuing proclamation and NBWA against the petitioner.

3. It is submitted that charge-sheet has been laid against the petitioner under Sections 22(b)/29 of the NDPS Act. The petitioner is willing to co-operate with the trial but proclamation and NBWA has been issued against the petitioner vide order dated 20.08.2024.

4. Heard Ms. N. Das, learned Additional Public Prosecutor, Assam for the respondent State.

5. It is submitted on behalf of the petitioner that the Annexure-8 of the petition clearly reveals that the petitioner's father's name was mentioned as Tomer Khan, and as the petitioner's father's name was wrongly mentioned as Tomer Khan instead of Tomesh Khan, NBWA could not be executed. The FIR clearly reveals that the petitioner's father's name is Tomesh Khan and not Tomer Khan.

6. Learned Additional Public Prosecutor has submitted that the petitioner may appear before the learned Trial Court and co-operate with the trial.

7. I have considered the submission that the petitioner is willing to co-operate with the trial. I have taken a pragmatic view. Thereby, the proclamation and

NBWA issued against the petitioner is kept in abeyance for 15 days and within 15 days, the petitioner is directed to appear before the learned Trial Court and co-operate with the trial.

8. In terms of the above observation, this application stands disposed of.

JUDGE

Comparing Assistant