

GAHC010231042024



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

Case No. : Crl.Pet./1333/2024

MANMIL CHANDRA MALI
S/O LATE PRASANNA MALI
R/O VILL- BORDOI PAKHIA
P.O. BAIHATA, P.S. KAMALPUR
DIST. KAMRUP, ASSAM
PIN-781380

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PP, ASSAM

2:SRI LAKSHAN BAISHYA
S/O LATE GOPAL BAISHYA
R/O VILL- NAGAON

P.O. BAIHATA CHARIALI

P.S. BAIHATA CHARIALI

DIST. KAMRUP
ASSAM
PIN-78138

Advocate for the Petitioner : MR. B K MAHAJAN, MR N J DAS,MR. A KHAN,MR. A CHAUDHURY

Advocate for the Respondent : PP, ASSAM,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

06.11.2024

Heard Mr. B.K. Mahajan, the learned counsel appearing for the petitioner. Also heard Mr. R.J. Baruah, the learned Addl. Public Prosecutor, Assam.

2. This is an application under Section 528 of the BNSS, 2023 praying for quashing the impugned order dated 12.05.2023 passed by the learned Addl. Sessions Judge, Kamrup at Rangia and subsequent orders passed by the learned Sub-Divisional Judicial Magistrate (M), Rangia in N.I. Case No.38/2015.

3. The petitioner was convicted in a case under the provisions of Negotiable Instruments Act. He preferred an appeal. The said appeal was dismissed for default of appearance, on the basis of the said order, the trial court directed issuance of Non-Bailable Warrant of Arrest against him.

4. Mr. Mahajan has relied upon two judgments of the Hon'ble Supreme Court that were delivered in *(1996) 9 SCC 372, Kishan Singh -versus- State of U.P.* and *(2011) 4 SCC 729, Mohd. Sukur Ali -versus- State of Assam.*

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

6. The impugned order dated 12.05.2023 passed by the learned Addl. Sessions Judge, Kamrup at Rangia in Criminal Appeal No.10/2019 as well as directing issue of Non-Bailable Warrant of Arrest against the present petitioner in connection with N.I. Case No.38/2015 are set aside.

7. The appeal is restored to file. The learned appellate court is directed to hear the

appeal and dispose of the same in accordance with the law.

8. The petitioner Manmil Chandra Mali shall appear before the learned appellate court within next 10(ten) days from today.

With the aforesaid direction, the present application is disposed of.

JUDGE

Comparing Assistant