

GAHC010240552024



2024:GAU-AS:11250

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

**Case No. : Crl.Pet./1385/2024**

NURUL ISLAM @ NOOR ISLAM  
S/O SMAIL SHEIKH  
R/O VILL- KACHUA NO. 1,  
P.O. KACHUA  
P.S. KACHUA  
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**  
**HONOURABLE MRS. JUSTICE MITALI THAKURIA**

**ORDER**

**Date : 19.11.2024**

Heard Mr. R. C. Das, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent.

**2.** This is an application filed under Section 528 of BNSS praying for quashing of the NBWA order dated 12.07.2017 and P&A order dated 19.10.2024 passed by the learned Additional District Judge (FTC), Nagaon and also for enlarging the accused/ petitioner on bail under Section 482 of BNSS in connection with SC T2 17/2017, under Section 420 & 376 of the India Penal Code, corresponding to Raha P.S. Case No. 300/2016, under Section 420/376/511 of Indian Penal Code.

**3.** It is submitted by Mr. Das, learned counsel for the petitioner, that the present accused/petitioner was not aware about the pendency of this case as he was working in Nagaland to earn his livelihood. He never received any summons to appear before the Court and subsequently only, he came to know about the issuance of NBWA against him. However, he is ready and willing to appear before the learned Trial Court below and to contest the case if he is given one chance to appear before the learned Trial Court below by giving interim protection in that regard till his appearance. He further submitted that the next date is fixed on 22.11.2024 and till then, he may be protected.

**4.** In this context, Mr. Baruah, learned Additional Public Prosecutor, submitted that the accused/petitioner may be directed to appear before the learned Trial Court below, but it is not at all a fit case to grant any interim relief to the accused/ petitioner as it seems that he is absconding and evading police arrest. The learned Trial Court below had to issue P & A against him after exhausting all the procedures to secure his attendance.

**5.** After hearing the submissions made by the learned counsels for both sides

and also on perusal of the case record, it is seen that only 2 (two) online orders have been annexed by the petitioner, i.e. 12.07.2017 wherein the order of issuance of NBWA was passed, & 19.10.2024 whereby the order was passed for recording statement of E.O., and the summons were accordingly issued after receipt of the P&A report. From the said 2 (two) orders annexed by the petitioner, it seems that the case is pending since 2017 for appearance of the present accused/ petitioner and in spite of issuance of NBWA on many occasions, the accused/petitioner never appeared before the learned Trial Court below for which the learned Court below had to issue the P&A against the present petitioner fixing the date for examination of E.O. on 22.11.2022.

**6.** In view of above and also considering the entire facts and circumstances of this case, I do not find it appropriate to pass any order on interim protection at this stage. However, the accused/petitioner is hereby directed to appear before the learned Trial Court below with an appropriate application for bail which shall be considered in accordance with law.

**7.** In terms of above, this criminal petition stands disposed of.

**JUDGE**

**Comparing Assistant**