

GAHC010247052024



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

Case No. : Crl.Pet./1424/2024

ABDUL MAZID
S/O LATE MAZU SEKH
R/O MOLLAPARA, HOWLY MOHANPUR, P.S. MANGALDOI, DIST.
DARRANG, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR N ISLAM, MR. M M ZAMAN,MR N AHMED

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 26-11-2024

Heard Mr. N. Ahmed, the learned counsel for the petitioner and also heard Mr. D.P. Goswami, the learned Addl. PP appearing for the State respondent.

2. This is an application u/s 528 of the BNSS, 2023 for setting aside and quashing of the order dated 27.05.2024 whereby the learned CJM, Kamrup (M)

at Guwahati issued NBWA against the present accused-petitioner in PRC Case No. 282/2022.

3. It is submitted by Mr. Ahmed, the learned counsel for the petitioner that the petitioner is an employee in the Assam Police and working as UBC and at the relevant time of incident, he was posted at Jhalukbari P.S. However, during the investigation he was granted the privilege of anticipatory bail. After filing of the Charge Sheet the learned Trial Court below had issued summon and in one occasion he received the summon but as he was on duty, did not appear before the learned Trial Court below and considering his absence, NBWA was issued but he was not aware about the issuance of any NBWA against him. However, the case is ready and he appeared before the learned Trial Court below on each and every date to be fixed by the Court and to context the case accordingly. He further submitted that he being a Police Officer there is no chance of absconding rather he would appear regularly before the learned Trial Court.

4. Mr. Goswami, the learned Addl. PP submitted in this regard that the petitioner may be directed to appear before the learned Trial Court with an appropriate application for bail, which may be considered in accordance with law.

5. I have heard the submissions made by learned counsel for both sides and perused the case record and annexure filed along with the petition. From the Charge Sheet it is seen that the accused was on bail and the summons was accordingly issued against him after submission of the Charge Sheet. However, as he failed to appear before the learned Trial Court below, issuedailable warrant and after execution of the same, the learned Trail Court below has issued the NBWA against the present petitioner.

6. However, considering the entire facts and circumstances of this case and also after considering the fact that the accused was in bail during the course of investigation, I find that one more chance be given to the present petitioner for appearing before the learned Trial Court below with an appropriate application for bail, which shall be considered in accordance with law. It is submitted that the next date of listing is 06.12.2024 and accordingly on or before the next date of listing, the accused-petitioner is directed to appear before the learned Trial Court below and the execution of NBWA issued against the present petitioner shall remain stayed/suspended till then.

7. With the above observations, the criminal petition is disposed of at the motion stage.

JUDGE

Comparing Assistant