

GAHC010247552024



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

Case No. : Crl.Pet./1423/2024

DIPANKAR KALITA
S/O LATE BHUBANESWAR KALITA
PRESENTLY RESIDING AT KADAM TAL CHOWK, BIKRAMPUR PATH,
JAPORIGOG,
P.S. DISPUR, GUWAHATI-781005, ASSAM, DIST. KAMRUP (M)

VERSUS

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

2:WAHIDUR RAHMAN
S/O LATE ABDULSALAM
R/O C/O KAMALA BEGUM

HOUSE NO. 8
BYE LANE NO. 3
SOUTH SARANIA
ULUBARI
GUWAHATI
ASSAM
P.S. PALTAN BAZAR
PIN-781007
DIST. KAMRUP (M)

Advocate for the Petitioner : MR. A BHATTACHARYA, MS ANKITA SAHARIA, MR S
PAUL, MS. K MALAKAR, MR. A BHATTACHARJEE

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 26-11-2024

Heard Mr. A. Bhattacharya, the learned counsel for the petitioner and also heard Mr. D.P. Goswami, the learned Additional PP appearing for the State respondent.

2. This is an application u/s 528 of the BNSS, 2023 for quashing the impugned order dated 03.07.2024 by which NBWA was issued against the present petitioner and also prayed for quashing of the impugned orders from 20.08.2024 till 23.10.2024 issued in consequent to the impugned order dated 03.07.2024.

3. It is submitted by Mr. Bhattacharya that the accused petitioner was allowed to go on bail on 20.06.2023 and on 28.06.2024 he filed his bail bond which was accepted accordingly and thereafter he was appearing regularly before the learned Trial Court below. However, he was represented in some days by his engaged counsel. It is also fact that there were some miscommunications between the present petitioner with his engaged counsel and on 21.02.2024 there was a submission made by the counsel stating that there was no communication with the present petitioner and accordingly since 03.07.2024 onwards a warrant of arrest was issued against the present petitioner.

4. Mr. Bhattacharya further submitted that already 5 witnesses have been examined and the petitioner is ready and willing to appear before the learned Trial Court below and to contest the case accordingly. However due to miscommunication with his engaged counsel he could not appear before the

learned Trial Court below in 3/4 days and for which NBWA was issued against him.

5. Mr. Goswami, the learned Additional PP submitted in this regard that that the petitioner may be directed to appear before the learned Trial Court below and to appear on each and every date of hearing.

6. Considering the submission made by the learned counsel for both sides and on perusal of the order sheets and other annexure filed along with the petition, it is seen that after enlargement of the accused on bail, he was regularly appearing before the learned Trial Court below. However on some occasion steps was taken on behalf of him, which was also allowed by the learned Trial Court. However, after the order of 21.02.2024, the learned Trial Court below had to issue NBWA against the present petitioner since 03.07.2024 and on subsequent dates as the learned engaged counsel did not represent the present petitioner.

7. Considering all these aspects of the case, the accused petitioner is hereby directed to appear before the learned Trial Court below with an appropriate application for bail which may be considered in accordance with law by the learned Trial Court below. However till the next date of listing, i.e. on 19.12.2024, the NBWA issued against the present petitioner shall be stayed/suspended.

8. With the above observations, the petition stands disposed of at the motion stage.

JUDGE

Comparing Assistant