

GAHC010248262024



2024:GAU-AS:12270

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

Case No. : Crl.Pet./1435/2024

B.S SIDHU
PROPRIETOR OF DIAZ HERB, HAVING ITS REGISTERED OFFICE AT 221,
JOSHI MARG, KALWAR ROAD, JHOTWARA, JAIPUR, P.S. JHOTWARA,
RAJASTHAN-302012

VERSUS

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

2:MRS. SANGEETA DEVI SURANA
R/O HOUSE NO.73
2ND FLOOR
JAIL ROAD
KRISHNA TOWER FANCY
P.O. GUWAHATI-781001
DIST. KAMRUP (M)

Advocate for the Petitioner : MR. FIRUZ KHAN, RHITUSHREE TALUKDAR,MR. ABHIJIT
MENA,DR AZIZ KHAN

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

04.12.2024

Heard Mr. F. Khan, learned counsel for the petitioner. Also heard Ms. S. H. Borah, learned Additional Public Prosecutor for the State respondent No.1.

In pursuant to the order dated 02.12.2024, the additional affidavit has been annexed in the petition.

This application is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for quashing of the impugned order dated 25.09.2024 passed in N. I. Case No.5238/2023 which is pending in the Court of learned Judicial Magistrate First Class, Kamrup (M), Guwahati whereby NBWA was issued against the petitioner.

Mr. Khan, learned counsel for the petitioner, has submitted that on 23.11.2023, cognizance was taken by the learned Trial Court, and accordingly, a notice was issued against the petitioner. However, on 22.03.2024, the petitioner could not appear as the summons was not received by the petitioner, who is the proprietor of DIAZ Herb. Further, on the next date, i.e., 25.07.2024, the petition was filed on behalf of the petitioner, which was accordingly allowed, and the next date was fixed for 25.09.2024 for appearance. However, on 25.09.2024, due to personal difficulty, the petitioner could not make contact with his engaged counsel, and the adjournment petition filed on his behalf was rejected by the learned Trial Court, which was not satisfactory. Accordingly, the NBWA was issued against the petitioner. The petitioner is, however, ready and willing to appear before the Trial Court as and when the date is fixed by the said Court,

provided he is granted some interim protection.

In this regard, Ms. Borah, learned Additional Public Prosecutor, has submitted that the State is a proforma party in this case; however, the petitioner may be directed to appear before the learned Trial Court with a proper application for bail.

Considering the submissions made by the learned counsels for both sides and also considering the fact that the accused/petitioner is ready to contest the case, I hereby direct the petitioner to appear before the Court of the learned Judicial Magistrate First Class, Kamrup (M), Guwahati, on or before the next fixed date and to file a fresh petition for regular bail. Upon filing such a petition, the learned Court below shall consider and dispose of the same in accordance with the law. Till then, the execution of the NBWA issued against the petitioner stands stayed/suspended.

With the above observation and direction, this criminal petition stands disposed of.

JUDGE

Comparing Assistant