

GAHC010250912024



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

Case No. : Crl.Pet./1459/2024

NARAYN CH DAS
S/O LATE SOMRAJ DAS
A RESIDENT OF BENGALI GIRLS HIGH SCHOOL ROAD, WARD NO. 13,
TINSUKIA, P.O. AND P.S. TINSUKIA, PIN- 786125, DIST. TINSUKIA, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR. S D PURKAYASTHA, MS S.S.BORA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 02-12-2024

Heard Mr. S.D. Purkayastha, the learned counsel for the petitioner and also heard Ms. S.H. Bora, the learned Additional Public Prosecutor appearing for the State respondent.

2. This is an application u/s 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for setting aside and quashing of the order dated 19.07.2024 and the other subsequent dates whereby the P&A and NBWA was issued against the present petitioner in connection with G.R. Case No. 4790/2008.

3. It is submitted by Mr. Purkayastha that the present petitioner obtained his bail order of this Court which was granted by order dated 04.05.2012 by this Court in connection with Bail Application No. 962 of 2012. After filing of the charge-sheet the summons were issued against the present petitioner but subsequently on 19.07.2024 the NBWA along with P&A was issued against the present petitioner with an observation that summons unserved in many occasions and the petitioner is evading trial. However, the present petitioner has not received summons from the Court and after issuance of the P&A, he came to know about the fact that the case has already been charge-sheeted. He is a permanent resident of his addressed locality where is he staying with his family members but without service of summons the Court passed the order of issuance of NBWA along with P&A. Accordingly, it is submitted that the petitioner is ready and willing to appear before the learned Trial Court below and to contest the case accordingly, if he is granted some interim protection and also prayed for quashing and setting aside the order dated 19.07.2024 along with the subsequent orders.

4. Ms. Bora, the learned Additional PP submits in this regard that from the report it is seen that the charge-sheet was filed in 2015 and the petitioner annexed the orders passed in the year 2024. But, there is no order for issuance of summons is unserved which were issued for long years 2013 to 2024. However, the petitioner may be directed to appear before the learned Trial Court below with an appropriate application for bail.

5. Considering the submission made by the learned counsel for both sides and on perusal of the case records and order sheets and other annexure filed along with the petition, this Court is of the opinion that the petitioner may be 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 his appearance i.e. on 24.12.2024, the P&A and NBWA issued against the present petitioner may be stayed/suspended.

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

JUDGE

Comparing Assistant