

GAHC010251052024



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

Case No. : Crl.Pet./1452/2024

MONI KUMAR DEORI
S/O SADANANDA DEORI
R/O RONGPURIA GAON
P.O. AND P.S. GOGAMUKH
DIST. DHEMAJI, ASSAM

VERSUS

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

2:SRI AMRIT NAYAN BARUAH
S/O NAYAN BARUAH
R/O H. NO. 32
NEAR NSOUTH SARANIA SHIV MANDIR

P.O. ULUBARI
GUWAHATI-07
DIST. KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. J M GOGOI, MR J P KACHARI

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

02.12.2024

Heard Mr. J M Gogoi, learned counsel for the petitioner and Mr. D Das, learned Additional Public Prosecutor, Assam.

This is an application filed under Section 528 read with Sections 438 and 442 of the BNSS, 2023 praying for recalling the orders dated 20.08.2022, 05.12.2022, 18.03.2023, 01.07.2023, 12.10.2023, 22.12.2023, 12.03.2024, 10.06.2024, 05.09.2024 and 08.11.2024 by which the learned SDJM No. 1, Kamrup (M), Guwahati issued BWA and NBWA against the petitioner, namely, Sri Moni Kumar Deori, in CR Case No. 1644/2022.

The petitioner has been facing trial in a case under the provisions of NI Act. He defaulted in appearance. Therefore, the trial court issued BWA against him, which was executed. After that, the petitioner did not appear and accordingly, the learned trial court issued NBWA against him. Now, it is submitted before this court that the petitioner is ready to appear before the learned trial court to face the trial. The petitioner also explained as to why he could not appear before the Court in spite of service of BWA.

I have considered the submission made by the learned counsel of both sides in the light of the circumstances associated with this case.

This court is of the opinion that since the petitioner intends to face the trial, he deserves to be given an opportunity to that effect. Therefore, the impugned orders dated 20.08.2022, 05.12.2022, 18.03.2023, 01.07.2023, 12.10.2023, 22.12.2023, 12.03.2024, 10.06.2024, 05.09.2024 and 08.11.2024 passed by the learned SDJM No. 1, Kamrup (M), Guwahati issuing BWA and NBWA against the petitioner, namely, Sri Moni Kumar Deori, in CR Case No. 1644/2022 are set aside and quashed.

In view of the above, the petitioner Sri Moni Kumar Deori is directed to appear before the trial court on 20.12.2024. On his appearance, the learned court shall release the petitioner on bail of Rs.20,000/- with one surety of like amount to the satisfaction of the learned trial court. With the above, the criminal petition is disposed of.

JUDGE

Comparing Assistant