

GAHC010253752024



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

Case No. : Crl.Pet./1462/2024

BIJULI NARZARY
D/O JOGENDRA KR. BORAH,
R/O KAHILIPARA, P.O. DISPUR, P.S. BHAGADUTTAPUR UNDER DISPUR P.S.,
DIST. KAMRUP (M), ASSAM
PIN-781019

VERSUS

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

2:DHANTI BORA
S/O LATE KATIA BORA

R/O VILL- CHAKARIGAON
P.O. TULASHIMUKH
P.S. NAGAON
DIST. NAGAON
ASSAM
PIN-78210

Advocate for the Petitioner : MR. D BORAH, MS P SINGH,K BARMAN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 02-12-2024

Heard Mr. D. Bora, the learned counsel for the petitioner. 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 against the impugned orders dated 03.09.2024, 08.10.2024 and 12.11.2024 passed by the learned JMFC, Kamrup(M) whereby NBWA was issued against the present petitioner in C.R. Case No. 2234^C/2020.

3. It is submitted by Mr. Bora, the learned counsel for the petitioner that vide order dated 08.04.2024, the case was transferred from the Court of learned JMFC Smt. Kaveri Bhattacharyya to the Court of learned JMFC, Sri Dimbeswar Roy, Kamrup and on next date of listing i.e. 18.06.2024, the present accused-petitioner was appeared by his engaged counsel by filing Vakalatnama and on 09.08.2024 he was remained un-represented, on which date BWA of Rs. 10,000/- was issued against him and next date was fixed on 03.09.2024. On 03.09.2024 the BWA returned unserved and on the day itself the NBWA was issued against the present petitioner and subsequently on 08.10.2024 and 12.11.2024 also fresh NBWA was issued against the present petitioner. It is further submitted by Mr. Bora that the present petitioner is working in Assam Police and presently posted at City Police Reserve, Panbazar and hence the BWA cannot returned unserved and without execution BWA, the NBWA was issued against her. However, the present petitioner is ready and willing to appear before the learned Trial Court below for contesting the case and accordingly she may be give some interim protection.

4. Ms. Bora, the learned Additional Public Prosecutor submitted in this regard

that they are the formal party in this case. However, the petitioner may be directed to appear before the learned Trial Court below with an appropriate application for bail.

5. Considering the submissions made by learned counsel for both sides and also on perusal of the case records and it is seen that the petitioner was duly represented by her engaged counsel. However, on 03.09.2024 she was not represented by her engaged counsel, on which date the BWA was issued and without proper service of BWA the NBWA was issued.

6. Considering this aspect of the case and also considering the submission made by learned counsel for the petitioner, she is directed to appear before the learned Trial Court below with an appropriate application for bail which may be considered in accordance with law. However, till the next date i.e. 26.12.2024. The NBWA issued against the present petitioner shall be stayed/suspended.

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

JUDGE

Comparing Assistant