

GAHC010257012024



2024:GAU-AS:12532

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

Case No. : Crl.Pet./1503/2024

PRADIP SINHA
S/O LATE BRAJADHAN SINHA, R/O VILL- BHAKATPUR, P.O.-BHAKATPUR,
P.S.-SILCHAR, DIST- CACHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:JOGENDRA SINHA
S/O SRI KULENDRA SINHA
R/O VILL- AND P.O.-SINGARI
P.S.-SILCHAR
DIST- CACHAR
STATE- ASSAM
PIN-78800

Advocate for the Petitioner : MR. A R BHUYAN, MR N A MAZARBHUIYA,MR N Z
CHOUDHURY

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

11.12.2024

Heard Mr. N. Z. Choudhury, learned counsel for the petitioner. Also heard Ms. S. H. Borah, learned Additional Public Prosecutor for the State respondent.

This application is filed under Section 528 read with Sections 438/442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for the quashing of the NBWA issued against the petitioner vide order dated 02.08.2024, passed by the learned Additional Chief Judicial Magistrate, Cachar, Silchar, in N.I. Case No. 24/2018.

Mr. Choudhury, learned counsel for the petitioner, has submitted that after taking cognizance, the petitioner appeared before the learned Trial Court and he was allowed to go on bail vide order dated 21.10.2019. The next date for the case was fixed on 08.11.2019, but the petitioner could not appear on the fixed date. Consequently, he filed an adjournment petition through his engaged counsel, stating that compromise talks were ongoing between the parties. Accordingly, the next date was fixed on 25.02.2020. However, on 25.02.2020 and on subsequent dates, the petitioner could not appear before the trial court as his father had passed away on 07.02.2020. Nonetheless, on all such dates, he submitted petitions before the trial court through his engaged counsel, requesting that his absence be condoned and the matter be adjourned. Due to the lockdown imposed during the COVID-19 pandemic, Court proceedings were not functioning, and the petitioner could not appear. He again filed a prayer petition for condonation of his absence. However, despite this, the Trial Court issued a BWA on 19.02.2021 during the COVID-19 period. His engaged counsel filed an adjournment petition, which was rejected on 28.02.2022, and an NBWA was issued against the petitioner. Subsequently, on all subsequent dates, the Trial Court

continued to issue NBWAs against the petitioner, with the most recent NBWA being issued on 02.08.2024.

He further submitted that although he could not annex the updated order(s), according to his client's instructions, the Trial Court has issued only an NBWA against the petitioner. The petitioner is still ready and willing to appear before the learned Trial Court and contest the case on each and every date fixed by the court, provided that interim protection is granted.

In this regard, Ms. Borah, learned Additional Public Prosecutor, has submitted that the accused/petitioner has remained absent for a considerable period. However, she submits that the petitioner be directed to appear before the learned Trial Court with a proper application for bail, which should be considered in accordance with the law.

Considering the submissions made by the learned counsels for both sides and other aspects of the case, I hereby direct the petitioner to appear before the Court of the learned Additional Chief Judicial Magistrate, Cachar, Silchar, on 13.12.2024, and to file a fresh petition for regular bail. Upon filing of such a petition, the learned court below shall consider and dispose of it in accordance with the law. Until then, the execution of any NBWA issued against the petitioner shall remain stayed/suspended until 13.12.2024.

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

JUDGE

Comparing Assistant