

GAHC010265542024



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

Case No. : Crl.Pet./1530/2024

REAJUL HOQUE @ RIYAJUL HOQUE AND ANR.
S/O KHAYBAR ALI
R/O MADHOSOULMAR PT. II
P.O. ADHOSOULMARI, P.S. GAURIPUR
DIST. DHUBRI, ASSAM
PIN-783301

2: FIROZ ALI
S/O KHAYBAR ALI
R/O MADHOSOULMAR PT. II
P.O. ADHOSOULMARI
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN-78330

VERSUS

STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR D KALITA, MS R KOUR

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

17.12.2024

Heard Mr. D. Kalita, learned counsel for the petitioners and Ms. N Das, learned Additional Public Prosecutor, Assam.

This is an application filed under Section 528 of the BNSS, 2023 challenging the order dated 16.11.2024 whereby NBWA was issued against the petitioners Reajul Hoque @ Riyajul Hoque and Firoz Ali by the learned Judicial Magistrate First Class, Dhubri in PR Case No. 134/2024.

The petitioners are accused in PR Case No. 134/2024 pending in the court of the learned Judicial Magistrate First Class, Dhubri.

According to the petitioners, they are working at Guwahati. The summons which might have been issued to them might have been received by their family members but they did not have the knowledge about pendency of the case.

The trial court held that since summons were issued and the accused persons did not appear on the given date, a direction was passed for issuing NBWA against the present petitioners.

Now, it is submitted that the petitioners are interested in facing the trial and, therefore, they should be given an opportunity to contest the case before the trial court.

I have considered the submission made by the learned counsel of both sides.

Since the petitioners are interested in facing the trial, this court is of the opinion that the petitioners should be given an opportunity to contest the case. Therefore, the impugned order dated 16.11.2024 whereby NBWA was issued against the petitioners Reajul Hoque @ Riyajul Hoque and Firoz Ali by the learned Judicial Magistrate First Class, Dhubri in PR Case No. 134/2024, is set aside and quashed. The NBWA shall be recalled.

Accordingly, the petitioners are directed to appear before the trial court on 16.01.2025 and on their appearance, they shall be released on bail of Rs.25,000/-each with one surety of like amount to the satisfaction of the learned Judicial Magistrate First Class, Dhubri.
The criminal petition is disposed of.

JUDGE

Comparing Assistant