

GAHC010268122024



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

Case No. : Crl.Pet./1546/2024

MD. JAMIR ALI
S/O MD. KHORSHED ALI
VILL- HAHSORIA
P.S. CHAYGAON
DIST. KAMRUP, ASSAM

VERSUS

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

2:RAMA KANTA MAZUMDAR
S/O LATE SAYARAM
MAZUMDAR
HEAD CONSTABLE OF GORHUK
POLICE STATION
P.S. GORCUK
DIST. KAMRUP (M)
ASSAM
MOBILE NO. 882269371

Advocate for the Petitioner : K RAHMAN, MR. SAIDUL ALOM

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 19-12-2024

Heard Mr. K. Rahman, the learned counsel for the petitioner. Also heard Mr. R.J. Baruah, the learned Additional Public Prosecutor appearing on behalf of State respondent no. 1.

2. This is an application u/s 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying for setting aside/quashing of the impugned order dated 01.02.2019 and other subsequent orders passed by the Additional Sessions Judge No. 1, Kamrup Metro, Guwahati in Sessions Case No. 198/2018 whereby P&A and NBWA was issued against the present-petitioner.

3. It is submitted by Mr. Rahman that the present petitioner was on bail and his prayer on previous bail was also allowed by the learned Trial Court below and in various occasions he was also represented by his engaged counsel. But, since 2019 as to earn his livelihood he had to go different places in search of his livelihood and for which he could not appear before the learned Trial Court below and his engaged counsel also did not represent him. However, at present he is ready and willing to appear before the learned Court below and to contest the case appearing each and every date to be fixed by the Court. He further submitted that till he appears before the learned Trial Court below, he may be protected by suspending the NBWA issued against him.

4. Mr. Baruah, the learned Additional Public Prosecutor submitted in this regard that the accused/petitioner remained absent since 01.02.2019 since when the NBWA was issued against him and in spite of several steps taken by the Trial Court below his attendance could not be procured and for which P&A had to be issued against the present petitioner. There is no illegality committed by the learned Trial Court below in issuing NBWA as well as P&A against the

present petitioner. As the P&A has already been issued against the present petitioner there cannot be any interim protection to the accused/petitioner. However, he may be directed to appear before the learned Trial Court below with an appropriate application.

5. Hearing the submissions made by learned counsel for both sides, I have also perused the case records and it is seen that prior to 01.02.2019, the accused/petitioner was on previous bail and in several occasions he was also represented by his engaged counsel but since 01.02.2019, i.e. almost 6 years the accused/petitioner is absconding and even after several efforts made by the learned Trial Court below his attendance could not be procured and for which the Trial Court had no other option but to issue P&A against the present petition.

6. Thus, considering the conduct of the accused/petitioner and the endeavour made by the learned Court below to procure his attendance, I find that it is not a case wherein any interim protection can be extended to the accused/petitioner. However, the accused/petitioner is hereby directed to appear before the learned Trial Court below with an appropriate application for bail which may be considered in accordance with law.

7. With the above observations, the criminal petition stands disposed of.

JUDGE

Comparing Assistant