

GAHC010269822024



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

Case No. : Crl.Pet./1567/2024

EBRAHIM ALI @ IBRAHIM ALI @ LAMBOO
S/O JEL HOQUE @ MD. JULHOQUE ALI
VILL- DALANERALGA PART-II
P.S. GOURIPUR
DIST. DHUBRI, ASSAM

VERSUS

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

2:MONIKA DEKA
W/O LATE BIPUL DEKA
VILL- BEGPARA

P.S. UDALGURI
DIST. UDALGURI
BTR
ASSA

Advocate for the Petitioner : MR. N UDDIN, MS. A AKHTAR, MR S K CHHETRY, MR. M ISLAM

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 20-12-2024

20.12.2024

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

This is an application 528 of BNSS, 2023 praying for setting aside the impugned order dated 03.12.2024, passed in continuation of the order dated 21.09.2021 by the learned Special Judge, Udalguri, whereby the NBWA was issued against the accused/petitioner in connection with Special (POCSO) Case No. 38/2021, under Section 120(B)/420/376(D)/511 of the Indian Penal Code *read with* Section 8 of POCSO Act *read with* Section 67 of Informatio Technology Act.

It is submitted by Mr. Uddin, learned counsel for the petitioner, that the present petitioner is innocent and he is no way connected in the alleged offence. Further, from the F.I.R. itself, it is seen that he is not the F.I.R. named accused person and hence, he was not aware about the case pending against him. However, the Charge-Sheet was filed showing the present accused/petitioner as an absconder and the learned Special Judge, on the first date of the receipt of the charge-sheet, i.e. on 21.09.2021, issued NBWA against him without even issuing any summon and thereafter on other subsequent dates also, NBWA was issued against him. The present petitioner is however ready and willing to contest the case by appearing before the learned Special Judge on each and every date if some interim protection is provided to him till his appearance before the learned Special Judge.

Ms. Bora, learned Additional Public Prosecutor, has submitted in this regard that as the petitioner is willing to appear before the learned Special Judge, Udalguri, he may be given one chance to appear before the learned Court below with an appropriate application for bail which may be considered in accordance with law.

Considering the submissions made by the learned counsels for both sides and also considering all circumstances of this case, this Court is of the opinion that the present petitioner may be given one

more chance to appear before the learned Trial Court below. Accordingly, I hereby direct the present petitioner to appear before the learned Trial Court below on or before 18.01.2025 with an appropriate application for bail, which shall be considered by the learned Court below in accordance with law. And, till then, the execution of NBWA, issued against the present petitioner, shall remain stayed/suspended.

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

JUDGE

Comparing Assistant