

GAHC010278662023



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

Case No. : Crl.Pet./1298/2023

ABHIMANYU DAS
S/O LATE SACHIKANTA DAS,
RESIDENT OF HOUSE NO. 10, SHREE BHUMI NAGAR, GHAGRA, PS
JALPAIGURI, DIST JALPAIGURI, WEST BENGAL ,INDIA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : M. HOSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 04.01.2024

Heard Mr. M. H. Laskar, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State as well as Mr. S. K. Chakma, learned counsel for the respondent No. 2.

This application under Section 482 of the Code of Criminal Procedure, 1973 read with Section 401 of the said Code read with Article 227 of the Constitution

of India has been filed by the petitioner impugning the order dated 17.10.2023 passed by the learned Special Judge (POCSO), Kamrup(M) whereby the order for proclamation of the petitioner as an absconder and attachment of his property (P&A) was issued against the petitioner.

The learned counsel for the petitioner has also submitted that along with the P&A, a standing Non-bailable Warrant of Arrest was also issued against the present petitioner. It is submitted by the petitioner that the petitioner had never received the summons issued by the Trial Court. It appears from the record that though the Trial Court issued summons on several occasions, the same returned without service due to unavailability of the present petitioner in the given address.

Learned counsel for the petitioner has submitted that the petitioner used to reside in a rented accommodation and he had left that accommodation after the alleged incident and, hence, he was not aware of any summons being issued to him. It also appears from the record that on 22.02.2022, the summons issued to the present petitioner was returned without service as the petitioner could not be found in the given address. However, the Court issued bailable Warrant of Arrest of Rs.3,000/- against the petitioner and thereafter continued to issue fresh Bailable Warrant of Arrest on several occasions as the said Bailable Warrant of Arrest also could not be executed. On 16.03.2023, the Trial Court issued Non-bailable Warrant of Arrest to the petitioner.

Learned counsel for the petitioner has submitted that the Trial Court without waiting for the report of the execution of the Bailable Warrant of Arrest issued against the present petitioner had issued Non-bailable Warrant of Arrest and thereafter ultimately issued P&A against the present petitioner. It is further submitted by learned counsel for the petitioner that the petitioner is ready to

face the trial before the Trial Court and as the process issued by the Trial Court were not in the notice of the present petitioner, it is prayed that some interim protection may be granted to the present petitioner so as to facilitate him for appearing before the Trial Court and face the trial.

Considering the submissions made by learned counsel for the petitioner that he would face the trial, learned Additional Public Prosecutor as well as learned counsel for the respondent No. 2 do not oppose the said prayer. Hence, this petition is disposed of with a direction to the petitioner to appear before the Trial Court within a period of one month from the date of this order and to facilitate his appearance before the Trial Court, the Non-bailable Warrant of Arrest issued against him shall be kept in abeyance. On appearance before the Trial Court, the petitioner may pray for regular bail before that Court, if so advised.

With this above observation, this criminal petition is disposed of.

JUDGE

Comparing Assistant