

GAHC010294122023



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

Case No. : Crl.Pet./1412/2023

KHADEM ALI @ MD KHADIM ALI
S/O LATE MD. HASEN ALI
VILL- NARARVITA 3 NO.KHANDA,
P.S. MERERCHAR,
DIST. BONGAIGAON, ASSAM

VERSUS

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

2:SUBHASISH DAS
S/O DILIP DAS
R/O SREEKANTA DUTTA PATH
BYE LANE-1
HOUSE NO. 105
ODALBKRA
GUWAHATI-34

P.S. DISPUR

DIST. KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. N UDDIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 04-01-2024

Heard Mr. M. Islam, learned counsel for the petitioner.

The petitioner Khadem Ali @ Md. Khadim Ali has filed this application u/s 482 Cr.PC read with Section 401 of the Cr.PC seeking setting aside and quashing the impugned order dated 30.09.2023 passed in continuation of the earlier order dated 28.10.2021 by the learned Judicial Magistrate, First Class, Kamrup (M) in connection with G.R. Case No. 604/2012 registered under Sections 457/380 of the Indian Penal Code. The next date fixed for appearance is 03.02.2024.

Heard Ms. S.H. Bora, learned Addl. PP for respondent No. 1.

The learned Addl. P.P. has accepted notice on behalf of respondent No. 1, so no formal notice is required to be issued to respondent No. 1. However, extra copies be furnished during the course of the day.

I have considered the submissions at the Bar.

It is submitted on behalf of the petitioner that for the first time NBWA was issued vide order dated 28.10.2021 by the JMFC. The order itself reflects that due to restricted court functioning as a result of the pandemic, the petitioner was unable to appear before the Court. It is also submitted on behalf of the petitioner that the learned counsel for the petitioner has not informed him about the issuance of the NBWA against the petitioner. Thereafter continuously orders have been passed relating to the NBWA issued against the petitioner. It is also submitted at the Bar that the trial is proceeding at regular pace, and 5 witnesses out of 13 witnesses have already been examined. The petitioner is willing to co-operate with the trial.

I have taken a pragmatic view. The petitioner is willing to co-operate with the trial, rather than keeping the trial pending.

The petitioner is directed to appear before the learned trial Court and apply for regular bail, which may be considered by the Court as per law.

Meanwhile the NBWA issued against the petitioner is kept in abeyance till the next date fixed i.e. on 03.02.2024.

Matter is closed.

JUDGE

Comparing Assistant