GAHC010158482026

2026:GAU-AS:10667

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

Case No. : Crl.Pet./1076/2026

POBAN KUMAR BORAH
S/O DINAI BORAH, R/O GANESH NAGAR, BASISTHA, NEAR KRISTI BIKASH KENDRA, OPPOSITE GANESH NAGAR, PS AND PO BASISTHA, DIST KAMRUP (M), PIN 781028, ASSAM

VERSUS

ATOWAR REHMAN
S/O LT BHOLA SHEIKH, R/O NIZARAPUR, NEAR GOVERNMENT AYURVEDIC COLLEGE, GIRLS HOSTEL, PO GUWAHATI UNIVERSITY, PS JALUKBARI, DIST KAMRUP, PIN 781014, ASSAM

Advocate for the Petitioner : MR. J KALITA, MS. E R BAISHYA,AMAN ALI

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

03.08.2026

Heard Mr. J. Kalita, learned counsel for the petitioner.

2. This petition, under Section 528 of the BNSS read with Article 227 of the Constitution of India, is preferred by the petitioner challenging the orders dated 04.04.2026 and 04.07.2026, passed by the learned Additional Chief Judicial Magistrate, Kamrup (M) at Guwahati (trial court hereinafter), in NI Case No.

4510/2019.

3. It is to be noted here that vide impugned order dated 04.04.2026 and 04.07.2026, the learned trial court had issued Non-Bailable Warrant of Arrest (NBWA hereinafter) as well as proclamation and attachment against the petitioner herein, respectively.

4. Mr. Kalita, learned counsel for the petitioner, submits that the petitioner herein is the accused in NI Case No. 4510/2019 and vide impugned order dated 04.04.2026, the learned trial court had issued NBWA against him and fixed the matter on 04.07.2026 and on that day also, the learned trial court had issued proclamation and attachment against him.

4.1. Mr. Kalita further submits that on the very first day, the learned trial court had issued NBWA against the petitioner and thereafter, had issued proclamation and attachment against him, without following required procedure for issuing the proclamation and attachment and as such, the impugned orders are illegal and arbitrary and therefore, Mr. Kalita has contended to set aside the impugned orders and allow the petitioner to participate in the trial of NI Case No. 4510/2019.

5. Having heard the submissions of learned counsel for both the parties, this Court has carefully gone through the petition as well as the documents placed on record and also gone through the impugned orders, dated 04.04.2026 and 04.07.2026.

6. Having perused the impugned orders, 04.04.2026 and 04.07.2026, by which the learned trial court had issued NBWA as well as proclamation and attachment against the petitioner herein, respectively, this Court finds that required procedure for issuing the same has not been followed by the learned

trial court and thereby it has caused serious prejudice to him and in that view of the matter, the aforementioned impugned orders fail to withstand the legal scrutiny and therefore, the same are set aside and quashed.

7. The petitioner herein is directed to appear before the learned trial court on or before 17.08.2026 and to file an application before it to allow him to go on bail and on such application being filed, the learned trial court shall consider the same in accordance with law.

8. In terms of above, this criminal petition stands disposed of, at this motion stage itself.

JUDGE

Comparing Assistant