GAHC010080552026

2026:GAU-AS:15317

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

Case No. : Crl.Pet./627/2026

NAYEB ALI AND ANR
SON OF LATE MOHUR UDDIN
VILL- NACHANGURI, 3 NO. GARUGAON, P.S. AND DIST. BONGAIGAON, ASSAM, PIN-781309.

2: MAMIRAN NESSA @ MONOWARA BEGUM
W/O NAYEB ALI
VILL- NACHANGURI 3 NO. GURUGAON
P.S. AND DIST. BONGAIGAON
ASSAM
PIN-781309

VERSUS

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

2:FARIDA KHATUN
W/O MOTALEB MIAVILL- NACHANGURI 3 NO. GARUGAON
P.S. AND DIST. BONGAIGAON
ASSAM.
PIN-78130

Advocate for the Petitioner : MR. A M AHMED, P. GHOSH,MRS S RAHANA,B DAS

Advocate for the Respondent : PP, ASSAM, MS. T PARASHAR, AMICUS CURIAE (R-2)

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 12-10-2026

Heard Mr. A M Ahmed, the learned counsel for the petitioners. Also heard Mr. K K Das, the learned Addl. PP appearing on behalf of State respondent no. 1 and Ms. T Parashar, the learned Amicus Curiae appearing for respondent no. 2.

2. This is an application filed by the petitioner nos. 1 & 2 against the impugned orders dated 20.08.2025 and 20.11.2025 passed by the learned Special Judge, Bongaigaon in connection with Special (P) Case No. 70(BNG)/2025 [arising out of Bongaigaon P.S. Case No. 91/2025 u/s 127(2)/75(2)/76 BNS read with section 10/17 of POCSO Act.

3. It is submitted by Mr. Ahmed that these two accused/petitioners are innocent and they are not aware about the lodging of the FIR as well as the Charge Sheet of this case. They never received any summons from the Court and after coming to know about the issuance of NBWA, the present petition has been filed seeking the quashing of the order passed by the learned Special Judge, issuing NBWA against them.

4. It is submitted by Mr. Ahmed that without issuing any summons against the present petitioners, the learned Special Judge on the very first day of the receipt of the case had issued Non-Bailable Warrant of Arrest against the present petitioners. He further submitted that the petitioner no. 1 who is a 65 years old person, Charge Sheet is filed against him u/s 10 of the POCSO Act apart from the other relevant sections of BNS. In the same time against the accused/petitioner no. 2, the case has been charge-sheeted u/s 17 of the POCSO Act along with other relevant sections of BNS. However, both the petitioners are ready and willing to appear before the learned Special Judge and to contest the case, if the warrant issued against them is suspended/stayed,

allowing them to appear before the learned Special Judge by granting some interim protection.

5. Mr. Das, the learned Addl. PP submitted that from the record it reveals that after filing of the Charge Sheet the case were put up before the learned Special Judge on 20.08.2025 and on the same day the warrant of arrest has been issued against the present petitioners. Accordingly, he submitted that a direction may be given to the petitioners to appear before the learned Special Judge with an appropriate application for bail.

6. Ms. Parashar, the learned Amicus Curiae appearing for the respondent no. 2 also made the submission that the petitioners may be directed to appear before the learned Special Judge with a prayer for bail as it reveals from the record that on the very first day on receipt of the record the learned Special Judge had issued Non-Bailable Warrant against the present petitioners.

7. Hearing the submissions made by learned counsels for both sides, I have also perused the case record, especially the order annexed along with the petition. It is an admitted fact that on the very first day of the receipt of the case the learned Special Judge had issued NBWA against both the petitioners with some reasoning that they never cooperated in the investigation of this case. However, it is seen that without issuing any summons or giving any opportunity of appearing before the learned Special Judge the warrant of arrest has been issued against the present petitioners. So considering all the aspects of the case and the submissions made by learned counsels for both sides, this Court is of the opinion that the petitioners may be given one opportunity to appear before the learned Special Judge with appropriate application for bail, which may be considered in accordance with law. However, the NBWA issued against both the petitioners be stayed/suspended till next date of listing giving

an opportunity to the petitioners to appear before the learned Special Judge with an appropriate application for bail.

8. With the above observations, the present criminal petition stands disposed of.

JUDGE

Comparing Assistant