GAHC010217712026

2026:GAU-AS:15453

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

Case No. : Crl.Pet./1407/2026

MR YASWANTA CHAUHAN
S/O PADUM BAHADUR CHAUHAN, R/O VILLAGE-KUMVIJAR, BAKSA
ASSAM-781368

VERSUS

STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:SRI BIBEK RAI
S/O GANESH RAI
R/O H. NO. 7
SHIVAM PATH
BYE LANE NO. 3
GHORAMARA
P.S. HATIGAON
GUWAHATI - 781038
KAMRUP (M)
ASSAM

Advocate for the Petitioner : MR. K BARMAN, MS. R SAHU

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

13.10.2026

Heard Mr. K. Barman, learned counsel for the petitioner and Mr. P. Barthakur, learned counsel for the State respondent.

2. In this petition, under Section 528 of the BNSS, 2023, the petitioner, namely, **Yaswanta Chauhan**, has prayed for quashing and setting aside the Order, dated 25.08.2026, passed by the learned Judicial Magistrate First Class ('JMFC' for short), Kamrup (M), Guwahati, in N.I. Case No. 678/2025.

3. It is to be noted here that vide impugned order, dated 25.08.2026, the learned JMFC, Kamrup (M), Guwahati, has issued Non-Bailable Warrant of Arrest ('NBWA' for short) against the present petitioner.

4. Mr. Barman, learned counsel for the petitioner submits that the petitioner is an accused in N.I. Case No. 678/2025, and that on 25.08.2026, the petitioner could not appear before the learned JMFC, Kamrup (M), Guwahati, for which, his engaged counsel had filed one petition, being Petition No. 2963, showing the absence of the bailor and to fix another date. However, the learned Trial Court, vide order, dated 25.08.2026, has rejected the petition and issued NBWA against the petitioner.

4.1 Mr. Barman further submits that the petitioner is ready to face trial and will appear before the learned Trial Court on each and every date. He also submits that he may be given an opportunity to appear before the learned Trial Court by

interfering with the impugned order, dated 25.08.2026.

5. Mr. Barthakur, learned Additional Public Prosecutor submits that the petitioner may be directed to appear before the learned Court below and apply for regular bail.

6. Having heard the submissions of the learned counsel for both the parties, this Court has carefully gone through the petition and the documents placed on record and also gone through the impugned order, dated 25.08.2026.

7. It appears that on 25.08.2026, the petitioner herein had filed a petition for adjournment of the case, as he could not manage the bailor. But the learned Court below had dismissed the same and directly issued NBWA against the present petitioner.

8. The law with regard to issuing NBWA against the accused is well settled in the case of **Inder Mohan Goswami & Another v. State of Uttaranchal & Others**, reported in **(2007) 12 SCC 1**, wherein, the Hon'ble Supreme Court has held that issuance of non-bailable warrant of arrest against the accused interferes with personal liberty and should not be done casually or without proper application of mind. It is also held that as a general rule, the Court should prefer summon or bailable warrant of arrest, if this would suffice to secure the accused appearance and as such, the procedure prescribed for issuing non-bailable warrant of arrest has to be followed scrupulously.

9. In the instant case, the learned Trial Court has directly issued NBWA against the petitioner, which is not at all permissible, in view of the decision of

the Hon'ble Supreme Court in the case of **Inder Mohan Goswami & Another (Supra).**

10. And in view of the above, the impugned order, dated 25.08.2026, stands set aside and quashed, as the same fails to withstand the legal scrutiny.

11. The petitioner is directed to appear before the learned JMFC, Kamrup (M), Guwahati, on or before 03.11.2026, and apply for regular bail. And in the event of filing such an application, the learned JMFC, Kamrup (M), Guwahati, shall consider the same in accordance with law.

12. In terms of the above, this criminal petition stands disposed of.

JUDGE

Comparing Assistant