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

Case No. : Crl.Pet./1460/2026

MAZIBOR RAHMAN ALIAS MAZIBUR RAHMAN
SON OF LATE JURAN ALI, RESIDENT OF VILLAGE GADLARPAM, P.S. LAKHIPUR, DISTRICT GOALPARA, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. R ALI, N PERVIN,MR. MUSTAFA HUSSAIN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

14.10.2026

Heard Mr. R. Ali, 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, **Mazibor Rahman @ Mazibur Rahman**, has prayed for quashing and

setting aside the Order, dated 06.11.2025, and subsequent Order, dated 05.06.2026, passed by the learned Chief Judicial Magistrate ('CJM' for short), Goalpara, in PRC Case No. 331/2025, arising out of Lakhipur P.S. Case No. 16/2025, under Sections 189(4)/118/109/3(5) of the BNS, 2023, by which, Non-Bailable Warrant of Arrest ('NBWA' for short) was issued against the present petitioner.

3. Mr. Ali, learned counsel for the petitioner submits that the petitioner is an accused in PRC Case No. 331/2025, arising out of Lakhipur P.S. Case No. 16/2025, and that on 06.11.2025, the petitioner could not appear before the learned CJM, Goalpara, for which, the learned CJM, Goalpara, had directly issued NBWA against him and continued to issue the same vide order dated 05.06.2026.

3.1 Mr. Ali further submits that the petitioner is ready to face trial and will appear before the learned Trial Court on each and every date and therefore, he has contended to allow this petition, by interfering with the impugned orders, dated 06.11.2025 and 05.06.2026.

4. 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.

5. 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 orders, dated 06.11.2025 and 05.06.2026.

6. It appears that before issuing NBWA against the present petitioner, the learned Trial Court has not issued any notice to the bailor or Bailable Warrant of Arrest (BWA for short), or recorded any satisfaction that if the notice to the bailor and BWA against the petitioner is issued, it would fail to secure the attendance of the petitioner.

7. It is to be noted here that 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, 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.

8. Since, in the instant case, the learned Magistrate has directly issued NBWA against the petitioner, vide impugned orders, dated 06.11.2025 and 05.06.2026, to the considered opinion of this Court, the said orders have failed to withstand the legal scrutiny, in view of the decision of the Hon'ble Supreme Court in the case of **Inder Mohan Goswami & Another (Supra).**

9. And in the result, the impugned orders, dated 06.11.2025 and 05.06.2026, stands set aside and quashed.

10. The petitioner is directed to appear before the learned CJM, Goalpara, on or before 19.12.2026, and apply for regular bail. And in the event of filing such

an application, the learned CJM, Goalpara, shall consider the same in accordance with law.

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

JUDGE

Comparing Assistant