GAHC010231712026

2026:GAU-AS:17150

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

Case No. : Crl.Pet./1591/2026

SRI SHRIHARI DEY ALIAS HARI DEY
S/O LATE SURESH DEY,R/O BOKAJAN TOWN, WARD NO-3,P.O P.S BOKAJAN,DIST KARBI ANGLONG, ASSAM, PIN 782480

VERSUS

THE STATE OF ASSAM,
TO BE REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM.

2:TANUSHREE DEY
D/O LATECHIDAM DEY
R/O BOKAJAN
MILANPUR
WARD NO-3
P.S P.OBOKAJAN
PIN-782480
DIST KARBIANGLONG
ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY, MR D J DAS,MR. I U CHOWDHURY,R L CHUTIA,MD E AHMED

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

18.11.2026

Heard Mr HRA Choudhury learned Senior Counsel, assisted by Mr E Ahmed, learned

counsel for the petitioner. Also heard Mr R R Kaushik, learned Additional Public Prosecutor for the State of Assam

2. By this application, filed under Section 528 of the BNSS, 2023, read with Section 442 the said Code, the petitioner has prayed for setting aside the order dated 03.12.2025 as well as the subsequent orders by which the Court of Special Judge (POCSO), Karbi Anglong, Diphu had issued NBWA as well as Proclamation and Warrant of Attachment, against the petitioner in connection with Bokajan PS Case No. 33 of 2025, corresponding to POCSO Case No. 16 of 2026, under Sections 329(4)/351(2) of BNS, 2023, read with Section 6 of the POCSO Act.

3. The facts of the case is that an FIR was lodged on 18.06.2026 by the victim herself that the petitioner had entered her house and committed rape upon her. Pursuant to the said FIR, the Police, on completion of the investigation, submitted charge sheet on 30.04.2026, showing the petitioner as absconder. Thereafter, by order dated 03.12.2025, the Court of Special Judge (POCSO), Karbi Anglong, on the report given by the Investigating Officer, by which it was stated that the petitioner was not found in spite of the search made, issued NBWA against the petitioner, and by subsequent orders, fresh NBWA was issued. Thereafter, by order dated 02.01.2026, proclamation was issued against the petitioner, and, thereafter, by subsequent orders fresh NBWA was issued. The petitioner further states that he filed an application for anticipatory bail before this Court, and by order dated 22.06.2026, he was enlarged on interim pre-arrest bail and, thereafter, by order dated 23.07.20276, this Court had extended the said interim protection, and by subsequent order

dated 05.10.2026, the interim order was further extended and it is stated by the learned counsel for the petitioner that the application for anticipatory bail is fixed on 23rd of November, 2026. However, it is seen that the Trial Court had issued NBWA as well as other orders of Proclamation and Attachment in continuance of their order before the interim protection that has been granted to the petitioner.

4. The learned counsel for the petitioner further submits that the victim had filed an affidavit in the bail application absolving the petitioner and that he further submits that the petitioner will appear before the Trial Court on the next date fixed, without fail.

5. It is seen that the Trial Court had issued the NBWA wayback in the year 2025, on the report of the IO that the petitioner was not found and that subsequently, fresh NBWA was issued, as well as the orders for Proclamation and Attachment. During the subsistence of the said order, the petitioner had obtained the order of interim protection from this Court, but it seems that the said order was not placed before the said Court. As such, it cannot be said that the Trial Court was at fault in issuing fresh NBWA and other orders after the interim protection, granted by this Court to the petitioner. However, under submission that the petitioner will appear before the Court on the next date fixed without fail and also due to the fact of filing of an affidavit by the victim, this Court directs that the petitioner should appear before the Trial Court on 23rd of November, 2026, without fail, and till then, the orders issuing NBWA as well as Proclamation and Attachment, be kept in abeyance. However, if the petitioner does not appear on the said date, the said orders will get revived. Further, it is observed that the petitioner will place the order of the High Court dated

22.06.2026, passed in the Anticipatory Bail Application, i.e., AB No. 615 of 2026, before the Trial Court and Trial Court will pass necessary orders as per law.

6. With the aforesaid directions, this Criminal Petition stands disposed of.

JUDGE

Comparing Assistant