GAHC010231972026

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

Case No. : AB/2750/2026

SHRI BUBUL ALIAS BABUL DEORI
S/O. LT. DAJARAM DEORI VILLAGE MAJORCHAPORI PO
MAJORCHAPORI /KINAPATHER PS NARAYANPUR, DISTRICT LAKHIMPUR
ASSAM -784164 PHONE NO. 87948-91089

VERSUS

THE STATE OF ASSAM
TO BE REPRESENTED BY PP, ASSAM

Advocate for the Petitioner : RAJU DEURI, RAJU DEURI,MR. S K DEORI

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

11.11.2026

Heard Mr. R. Deuri, learned counsel for the applicant and Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent.

2. This application, under Section 482 of the BNSS, 2023 is preferred by applicant, namely, **Bubul @ Babul Deori**, who has been apprehending his arrest in connection with Special (NDPS) Case No. 36/2025, arising out of Narayanpur P.S. Case No. 24/2025, corresponding to G.R. No. 295/2025, registered under Sections 20(b)(ii)C/29 of the NDPS Act, for grant of pre-arrest bail.

3. Mr. Deuri, learned counsel for the applicant submits that the applicant is an accused in Special (NDPS) Case No. 36/2025 and the case is pending at the stage of appearance, before the learned Special Judge (NDPS), Lakhimpur, North Lakhimpur.

3.1. Mr. Deuri further submits that the applicant has been shown as an absconder in the charge-sheet, for which, the learned Court below, vide order, dated 20.05.2026, has directly issued NBWA against the applicant, and that the applicant is ready to face trial and will appear before the learned Court below on each and every date, and under such circumstances, he has contended to grant protection to the applicant, so as to enable him to appear before the learned Court below.

4. Per contra, Mr. Baruah, learned APP, submits that the applicant may be directed to appear before the learned Court below and apply for regular bail.

5. Having heard the submission of learned counsel for both the parties, this Court has carefully gone to the application and the documents placed on record.

6. It appears that vide order, dated 20.05.2026, the learned Special Judge (NDPS), Lakhimpur, North Lakhimpur, has directly issued Non-Bailable Warrant of Arrest (NBWA) against the applicant for showing him as absconder in the chargesheet.

7. The law with regard to issuance of NBWA against the accused is well settled in the case of **Inder Mohan Goswami & Another Vs. State Of Uttaranchal & Others**, reported in **(2007) 12 SCC 1**, where the Hon'ble Supreme Court has held that issuance of a Non-Bailable Warrant of Arrest interferes with personal liberty (a paramount right under Article 21 of the Constitution of India) and should not be done casually or without proper application of mind. It has also been held that as a general rule, courts should prefer summon or Bailable Warrant of Arrest (BWA), if these would not suffice to secure the appearance of the accused. And the NBWA should be ordinarily issued only when summon or Bailable Warrant of Arrest are unlikely to produce the desired result. On the reasonable belief that the person will not appear voluntarily, inability to serve summon or risks of harm, or in cases involving heinous offenses, where the accused is likely to evade arrest or tamper with the evidence.

8. In the instant case, though the applicant has been shown as absconder in the charge-sheet, the learned Court below has directly issued NBWA against the applicant, without first issuing summon or BWA, and without recording a satisfaction to the effect that the accused is intentionally avoiding the proceeding, and the summon or the BWA is unlikely to produce the desired

result.

9. And in that view of the matter, this Court is inclined to dispose of this petition, by directing the applicant to appear before the learned Court below and to apply for regular bail. And in the event of filing such an application, the learned court below shall consider the same in accordance of law. And till then, the NBWA issued against the applicant shall be kept in abeyance.

10. In terms of the above, this application stands disposed of.

JUDGE

Comparing Assistant