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

Case No. : AB/2751/2026

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 : MR. S K DEORI, RAJU DEURI

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 is 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. 55/2025, arising out of Laluk P.S. Case No. 156/2025, corresponding to G. R. No. 736/2025, 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. 55/2025 and the case is pending at the stage of production of the accused, before the learned Additional Special Judge (FTC), 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 28.09.2026, has issued NBWA and P&A against the accused, as the NBWA issued against him has returned with a report that he was not found in the address given; 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 28.09.2026, the learned Additional Special Judge (FTC), Lakhimpur, North Lakhimpur, has issued P&A against the accused, as the NBWA issued against him, returned with a report that he was not found in the address given.

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. Similarly, the law with regard to issuance of P&A against the accused is also well settled in a catena of decisions, and before issuing P&A, the Courts have to follow certain procedure, as provided under Section 84 of the BNSS, 2023, and that the Court must have reason to believe that the person has absconded or is concealing himself, so that warrant cannot be executed. And the reason to believe requires application of judicial mind, based on materials on record, i.e., Police report of non-execution, attempt and service. Mere return of a un-executed warrant is not enough. The Court must record satisfaction that the person is deliberately avoiding the process.

8. In the instant case, though the applicant has been shown as an absconder in the charge-sheet, the learned Court below has directly issued NBWA and P&A 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 that the summon or the BWA issued against him 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 and P&A issued against the applicant shall be kept in abeyance.

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

JUDGE

Comparing Assistant