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

Case No. : Crl.Pet./1652/2026

MD JIABUR RAHMAN ALIAS MAINA
R/O-VILLAGE-PADUMONI, P.S. LALUK, DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND ANOTHER
TO BE REPRESENTED BY THE P. P, ASSAM

2:SRI SAILENDRA BORAH
R/O- VILLAGE- SANTIPUR
MAJGAON
P.S. LALUK
DIST. LAKHIMPUR
ASSA

Advocate for the Petitioner : MR. J C GOGOI, MR B ISLAM

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

25.11.2026

1. Heard Mr. B. Islam, learned counsel for the petitioner and Ms. S. H. Bora, learned Additional Public Prosecutor for the State.

2. By this application filed under Section 528 of the BNSS, 2023, the

petitioner has prayed for quashing and setting aside of the impugned orders dated 21.05.2025 as well as the subsequent orders passed in Special POCSO Case No. 22/2021 arising out of Laluk P. S. Case No. 471/2020 by which non-bailable warrant of arrest as well as proclamation and attachment were issued against the petitioner. The petitioner has also prayed for quashing of the order by which the petitioner was declared as a proclaimed offender.

3. Learned counsel for the petitioner submits that after the charge-sheet was submitted before the Court, the petitioner was in judicial custody at that juncture and he was made to appear before the Court, but he was enlarged on bail on 18.03.2021. He further submits that even thereafter the petitioner appeared before the Court, but due to advent of Covid, he faced financial difficulties and subsequently went to other State to earn his livelihood.

4. Learned counsel for the petitioner submits that still the petitioner appeared before the Court and he was present throughout and that on 13.09.2024, the petitioner could not present himself before the Court but took steps. Learned counsel further submits that subsequently, when the petitioner was absent without any steps, the Court i.e., the Special Judge POCSO, Lakhimpur issued NBWA against him. He further submits that by subsequent orders too, fresh NBWA was issued and that further by order dated 04.12.2025, proclamation and attachment was issued against the petitioner and that thereafter, the petitioner was declared as a proclaimed offender by order dated 15.05.2026.

5. Learned counsel, however, submits that there is no intention on the part of the petitioner not to appear before the Court and that due to loss of contact with the counsel, he could not appear. He further submits that the petitioner will appear before the Court positively on the next date fixed.

6. Ms. S. H. Bora, learned Additional Public Prosecutor on the other hand,

submits that there are no infirmities in the order of the Trial Court in issuing NBWA or proclamation and attachment or declaring the petitioner as a proclaimed offender.

7. It is noticed that the petitioner initially was present before the Court throughout, even during the time of COVID and that subsequently also, although he was absent, he took steps, but on 21.05.2025, NBWA was issued against him as he was absent and he did not take steps.

8. However, on the submission of the learned counsel for the petitioner that the petitioner will appear before the Court without fail on the next date, this Court directs that the petitioner should appear before the Special Judge, Lakhimpur within a period of 15 days from the date of this order and till then, the order issuing NBWA as well as proclamation and attachment and declaring him as a proclaimed offender should be kept in abeyance. However, if the petitioner does not appear within the stipulated time, the said orders will get revived.

9. In terms of the above observation, this petition is disposed of.

JUDGE

Comparing Assistant