

GAHC010046122020



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

Case No. : Crl.Pet. 193/2020

1: ARJUMAND ALI BORBHUIYA AND 2 ORS.
S/O LATE ARAB ALI BORBHUIYA, R/O VILL AND P.O.-KASHIPUR, PART-II,
P.S.-SILCHAR, DIST-CACHAR, ASSAM

2: AZMAL HUSSAIN BORBHUIYA
S/O LATE ARAB ALI BORBHUIYA
R/O VILL AND P.O.-KASHIPUR
PART-II
P.S.-SILCHAR
DIST-CACHAR
ASSAM

3: AFJAL HUSSAIN BORBHUIYA
S/O LATE ARAB ALI BORBHUIYA
R/O VILL AND P.O.-KASHIPUR
PART-II
P.S.-SILCHAR
DIST-CACHAR
ASSA

VERSUS

1: THE STATE OF ASSAM AND ANR.
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2: HAZIRA BEGUM
W/O LATE TUTA MIA BORBHUIYA
R/O VILL AND P.O.-KASHIPUR
PART-II
P.S.-SILCHAR
DIST-CACHAR
ASSA

Advocate for the Petitioner : MR. P KATAKI
Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

28-02-2020

Heard Ms. R. Begum, learned counsel appearing for the petitioners and Mr. D. Das, learned Additional Public Prosecutor, Assam for the respondent No.1.

By this Criminal Petition under Section 482 Cr.P.C. the petitioners, have prayed for stay the order of Non-Bailable Warrant of Arrest, issued by the learned Sub Divisional Judicial Magistrate (S), Cachar, Silchar in G.R. Case No.849/2007 under Sections 354/352/34 of the IPC for their appearance in the said case.

It is brought to the notice of the Court that they appeared in said G.R. Case and due to their non appearance in the G.R. Case on subsequent dates without step the learned Magistrate issued the order of NBWAs.

It is stated by the petitioners that they are willing to appear before the learned Trial Magistrate and is ready to participate in the said G.R. Case No.849/2007 but due to the order of NBWAs issued against them in said G.R. Case they are under apprehension that on their appearance they would be arrested in said G.R. Case No.849/2007. It is also submitted by them that the said GR Case is fixed tomorrow i.e., on 29.02.2020.

Considering that the petitioners want to appear in said G.R. Case No.849/2007, pending before the learned SDJM(S), Cachar, Silchar; this criminal petition is accordingly disposed of at the motion stage itself directing the petitioners herein to appear before the learned SDJM(S), Cachar, Silchar on **20.03.2020** and thereafter, as and when it is fixed.

In the event of such appearance of the petitioners before the learned SDJM(S), Cachar, Silchar in G.R. Case No.849/2007 on **20.03.2020** and in the event of filing any such bail application as well as application for recalling the order of NBWAs issued against them in said G.R. Case, the concerned Magistrate, shall consider the same in accordance with law, securing the presence of the accused petitioners herein in the said G.R. Case No.849/2007 on

its subsequent dates and during its trial.

Till such appearance of the petitioners, on **20.03.2020** before the learned SDJM(S), Cachar, Silchar, in said G.R. Case No.849/2007, the orders of Non-Bailable Warrant of Arrest, issued against them, in said GR Case, passed earlier, shall remain suspended till **20.03.2020** only, so as to enable the petitioners to appear before the said Magistrate on 20.03.2020.

However, it is made clear that failure on the part of the petitioners, to appear before the learned SDJM(S), Cachar, Silchar, on **20.03.2020** and thereafter, in said G.R. Case No.849/2007, the learned Magistrate shall be at liberty to pass any such order, which he deems fit and necessary, securing the appearance of the said petitioners in the said GR Case.

It is further made clear that time for appearance of the petitioners in said G.R. Case No.849/2007 before the learned SDJM(S), Cachar, Silchar, shall not be extended further, as they are aware of the case, which is pending since 2007.

With the aforesaid observation and direction, this criminal petition stands disposed off.

JUDGE

Comparing Assistant