

GAHC010163132024



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

Case No. : Crl.Pet./1041/2024

FARUK HUSSAIN
S/O ABASH ALI
R/O VILL- BIDYAPARA PART-II,
P.O. BHUSIRMAT, P.S. DHUBRI, DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY ITS PP, ASSAM

2:CHANDAN ROUT
SUB-INSPECTOR OF POLICE

IN-CHARGE
BAZAR TRAFFIC OUT POST
DHUBRI

DIST.DHUBRI
ASSA

Advocate for the Petitioner : MR. M AHMED, MD I H LASKAR

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

31.08.2024

Heard Md. I. H. Laskar, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam, for the State respondent No. 1.

This is an application filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for quashing of the order dated 25.07.2024 passed by the learned Special Judge (Addl.), Dhubri, in Special Case No.379/2022 [arising out of the Dhubri P.S. Case No.126/2022] so far it relates to issuance of NBWA against the petitioner.

It is submitted by the learned counsel for the petitioner, Mr. Laskar, that the present petitioner is innocent and no way connected with the alleged offence. He also submitted that nothing has been seized from his possession which reveals from the seizure list itself. He further submitted that during the pendency of the investigation, the petitioner was never searched by the police and he came to know about the pendency of the case only when he received summon from the Trial Court. Thereafter, NWBA was issued against him. The petitioner is ready to face the trial and will regularly appear before the Court if the order of issuance of warrant is being suspended and also prayed for quashing of the order dated 25.07.2024.

In this regard, Mr. Borthakur, learned Additional Public Prosecutor has submitted that at present the merits of the case cannot be decided. The charge-

sheet itself reveals that the accused/petitioner could not be arrested during the investigation and he was shown as absconding after issuance of summon and accordingly, the learned Trial Court issued NBWA against the petitioner.

After hearing the submissions made by the learned counsels for both sides and perusing the case record, it is observed that the Trial Court issued a summons and a BWA against the accused/petitioner due to his non-appearance. Thus, considering the conduct of the accused/petitioner, I hereby direct the petitioner to appear before the Court of learned Special Judge (Addl.), Dhubri, within 10 (ten) days from today and to file a fresh petition for regular bail and upon filing of such petition, the learned Court below shall consider and dispose of the same in accordance with law. And, till then, the execution of NBWA, issued against the petitioner, stands stayed/ suspended.

With the above observation and direction, this criminal revision petition stands disposed of.

JUDGE

Comparing Assistant