GAHC010201682026

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

Case No. : Crl.Pet./1332/2026

SRI PINKU DEY
S/O PRADIP DEY, R/O VILL AND PO AYNAKHAL BAZAR, 788164, PS LALABAZAR, DIST HAILAKANDI, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
NOTICE TO SERVED THROUGH THE PUBLIC PROSECUTOR, GOVT OF ASSAM

2:SMTI BHAWANI ROY
W/O LATE PRODESH ROY
R/O RONGPUR SANTIPARA
PO RONGPUR
SILCHAR
788009
PS SILCHAR
DIST CACHAR
ASSA

Advocate for the Petitioner : MR B MALAKAR, MR A HUSSAIN

Advocate for the Respondent : PP, ASSAM, MR. A B DEY, AMICUS CURIAE (R-2)

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

Date : 14.10.2026

Heard Mr. B Malakar, learned Counsel for the petitioner and Ms. SH. Bora, learned Additional Public Prosecutor for the State. Also heard Mr. AB Dey, learned Amicus Curiae appears for respondent no.2.

2. By this application filed under Section 528 of the BNSS, 2023 as well as Article 227 of the Constitution of India, the petitioner has prayed for quashing of the order dated 05.08.2026 passed by the Court of Special Judge, Cachar Silchar in Special POCSO Case No. 77/2024.

3. The case of the petitioner is that an FIR was lodged by the mother of the victim stating inter alia that her minor daughter, who was studying in VII standard was lured and taken off by the petitioner along with others to the house of another accused person and was confined in that house. She also stated that the petitioner raped his minor daughter and threatened her not to divulge the incident to anyone. She also stated that the petitioner with the cooperation of other accused person had taken her minor daughter to house of another accused person and she was also raped there and when her daughter was found vomiting, she took her to the doctor and the doctor on examination found her pregnant.

4. The police on receipt of the FIR registered the same as Silchar PS Case No. 2380/2023 and upon completion of the investigation submitted charge sheet on 31.01.2024 arraying the petitioner as well as another person as accused

person and charged them under Section 342/376/506 read with Section 34 IPC along with Section 6 of the POCSO Act. Thereafter, the trial started and the process was issued against the petitioner. However, it is noticed that the petitioner did not appear before the Court on various dates and that on 05.08.2026, NBWA was issued against him. It is this order that the petitioner has put to challenge by this application.

4. The learned Counsel for the petitioner submits that the petitioner had appeared initially but later on due to genuine reasons he could not appear. He submits that petitioner will appear before the Court positively on the next date fixed by the Court.

5. Mr. AB Dey, learned Amicus Curiae appearing for respondent no.2. submits that there is no infirmity in the order of the Special Judge, Cachar Silchar in passing the order as it is reflected therein that petitioner had not appeared before the Court on various dates and he submits that the evidence is over in the said case and the argument is to be heard.

6. Ms. SH. Bora, learned Additional Public Prosecutor for the State also submits that there is no infirmity in the order and the petitioner be directed to appear before the Trial Court.

7. Upon considerations of the submission made by the all the learned Counsels, this Court directs that the petitioner should appear before the Trial Court on the next date fixed i.e. on 13.11.2026 without fail and till then the NBWA issued against the petitioner be kept in abeyance and the petitioner is given the liberty to file the appropriate application including the Bail Application before the said Court which will be considered as per law. However, if the petitioner does not appear on the stipulated date i.e. on 13.11.2026, the order

issuing NBWA will be revived.

8. Petition is disposed of.

JUDGE

Comparing Assistant