GAHC010232932026

2026:GAU-AS:15760

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

Case No. : Crl.Pet./1477/2026

SRI PABITRA SAIKIA
SON OF SRI KULEN SAIKIA RESIDENT OF 4 NO. TARANI, AMAJAGAON UNDER MERAPANI POLICE STATION IN THE DISTRICT OF GOLAGHAT, ASSAM.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY P.P., ASSAM

Advocate for the Petitioner : MR. B M CHOUDHURY, MS A M DCOSTA,U SARMA,MR. J SARMA,MR. U CHOUDHURY,G SARMA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

15.10.2026

1. Heard Mr. B.M. Choudhury, learned senior counsel assisted by Mr. U. Choudhury, learned counsel appearing for the petitioner. Also heard Mr. B. Sharma, learned APP appearing for the State of Assam.

2. By this application filed under Section 528 of the BNSS, 2023 the petitioner has prayed for setting aside the order dated 18.03.2026 passed in PRC Case No. 182/2026 by the learned Judicial Magistrate First Class, Jorhat whereby a non-bailable warrant of arrest (NBWA) was issued against the petitioner. The petitioner has also prayed for setting aside the subsequent orders whereby fresh non-bailable warrants of arrest were issued against him.

3. The case of the petitioner is that an FIR was lodged against him by the informant alleging *inter alia* that when her husband was in jail, she became acquainted with the petitioner who had assured her that he would secure her husband's release from jail. The informant further alleged that taking advantage of the situation, the petitioner had forcibly established a physical relationship with her.

4. Upon completion of the investigation, the police submitted the charge sheet showing the petitioner as an absconder. Thereafter, the charge sheet was placed before the concerned court.

5. The learned counsel appearing for the petitioner submits that an application for bail was filed before the learned Sessions Court, as the offences alleged against the petitioner are triable by the Court of Session. However, the learned counsel submits that the matter was remitted to the Court of the learned Judicial Magistrate First Class, Jorhat as the case had not been committed to the Court of Session. The learned counsel further submits that the learned Judicial Magistrate First Class, Jorhat by order dated 18.03.2026 issued a non-bailable warrant of arrest against the petitioner on the very first date of appearance. The said order along with the subsequent orders issuing fresh non-bailable warrants of arrest has been challenged in the present application.

6. The learned counsel however undertakes that the petitioner shall appear before the concerned court on the next date fixed without fail.

7. On the other hand, Mr. B. Sharma, learned APP submits that there is no bar on the part of the learned court to issue a non-bailable warrant of arrest (NBWA) against the petitioner on the very first date of appearance. He further submits that the petitioner was shown as an absconder in the charge sheet and had also been declared an absconder by the order dated 17.06.2025 passed by the learned Chief Judicial Magistrate.

8. Upon consideration of the submissions made by the learned counsel for the parties, this Court finds that although there is no absolute bar on issuing a non-bailable warrant of arrest on the very first date of appearance such an order must be supported by reasons as contemplated under the erstwhile Section 87 of the Code of Criminal Procedure, 1973. This Court has also taken note of the petitioner's undertaking that he shall appear before the concerned court without fail.

9. This Court directs the petitioner to appear before the concerned court, i.e., the Court of the learned Judicial Magistrate First Class, Jorhat within a period of 15 (fifteen) days from today. Until then, the orders issuing non-bailable warrants of arrest (NBWAs) against the petitioner shall remain in abeyance. However, in the event the petitioner fails to appear before the concerned court within the stipulated period, the orders issuing the NBWAs shall stand revived.

10. It is further directed that the petitioner shall be at liberty to file an appropriate application including an application for bail which shall be considered by the learned court in accordance with law including the fourth proviso to Section 480 of the BNSS, 2023 as applicable.

11. With the above directions, the petition stands disposed of.

JUDGE

Comparing Assistant