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

Case No. : Crl.Pet./21/2026

AFJALUR RAHMAN ALIAS AFZAL
SON OF ABDUL MOTIN
VILL- RAMPUR, P.S. KALGACHIA
DIST. BARPETA, ASSAM
PIN-781309.

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY, P. GHOSH,B DAS,MR. A M AHMED

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 09-01-2026

Heard Mr. S.S. Ahmed, learned counsel for the petitioner and Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent State of Assam.

2. In a First Information Report [FIR] lodged on 10.04.2015 before the Officer In-Charge, Kalgachia Police Station and registered as Kalgachia Police Station Case no. 471/2015 under Section 366A/34, Indian Penal Code [IPC] with added Section 4, Protection of Children from Sexual Offences [POCSO] Act the petitioner was named as accused no. 1 along with four other accused persons. After completing investigation into Kalgachia Police Station Case no. 471/2015, a charge-sheet under Section 173[2], CrPC was submitted by the Investigating Officer [I.O.] vide Charge-Sheet no. 317/2021 dated 29.04.2021 stating inter alia that a prima facie case was found established against the petitioner and two others for committing the offences under Sections 366A/34, IPC while a prima facie case was established against another accused, Jehidul Islam under Section 366A/34, IPC read with Section 6, POCSO Act. The I.O. mentioned that during the course of investigation, the petitioner could not be arrested as he seemed to have absconded evading arrest.

3. On submission of the Charge-Sheet, the case has been registered as Special POCSO Case no. 50/2022 before the Additional Sessions Judge-cum-Special Judge, Barpeta [‘the Special Court’, for short]. The Special Court took cognizance on 25.02.2022 and considering the fact that in the Charge-Sheet, the petitioner was shown to be absconding, issued non-bailable warrant of arrest [NBWA] against the petitioner to secure his presence in the trial. On the subsequent dates also, the Special Court ordered for issuance of non-bailable warrant of arrest against the petitioner.

4. It is submitted on behalf of the petitioner that the petitioner was not aware of the lodgment of the FIR, submission of Charge-Sheet and initiation of

the proceedings of Special POCSO Case no. 50/2022 till recently. It is further submitted that like the other accused persons, the petitioner did not prefer any application for bail in view of such lack of knowledge.

5. Though such grounds urged on behalf of the petitioner are found to be not satisfactory, this Court cannot be oblivious of the fact that out of the four charge-sheeted accused persons, three of them have already entered appearance in the trial of Special POCSO Case no. 50/2022 and it is due to non-appearance of the petitioner as the fourth charge-sheeted accused, the proceedings of Special POCSO Case no. 50/2022 could not reach the stage of framing of charges. Section 35[2], POCSO Act contains a prescription that the Special Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognizance of the offence. It is in the best interests of all the stakeholders, that is, the prosecution, the victim, the witnesses and the accused persons that the proceeding of Special POCSO Case no. 50/2022 require expeditious conclusion and such purpose is achievable in the event the petitioner as the 4th charge-sheeted accused starts participating the proceedings of Special POCSO Case no. 50/2022.

6. Mr. Ahmed, learned counsel for the petitioner has submitted that the petitioner is ready and willing to take participation in the proceedings of Special POCSO Case no. 50/2022 and there will not be any default on the part of the petitioner henceforth.

7. It transpires from the orders passed by the learned Special Court that the warrants of arrest issued against the petitioner were not executed and on

12.12.2025, the Special Court directed to issue fresh warrant of arrest [NBWA] against the petitioner at his new address posting the case on 17.01.2026 for his appearance.

8. The learned counsel for the petitioner has submitted that the petitioner is ready and willing to appear before the Special Court on 17.01.2026. It is further submitted that the petitioner has apprehension that before his appearance on 17.01.2026 before the Special Court, he might be taken into custody on the basis of the warrants of arrest issued against him on and from 25.02.2022.

9. This Court is of the considered view that the warrants of arrest [NBWA] issued against the petitioner on and from 25.02.2022 can be kept in abeyance till 17.01.2026 in order to enable the petitioner to appear before the Special Court without the apprehension of being taken into custody on the strength of the warrants of arrest [NBWA] issued against him. It is accordingly ordered. It is observed that in the event the petitioner appears before the Special Court on 17.01.2026 and files an application seeking his release on bail, the Special Court shall consider the same on its own merits and in accordance with law. It is further observed that in the event the petitioner fails to appear on 17.01.2026 before the Special Court, then the warrants of arrest [NBWA] issued against him on and from 25.02.2022 shall stand revived.

JUDGE

Comparing Assistant