

GAHC010034932024



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

Case No. : Tr.P.(Crl.)/11/2024

SAHNUR ALI
S/O LATE SADULLAH SHEIKH R/O SHANITPUR (NEAR MASJID),
MANGALDAI TOWN, WARD NO. 2, P.O. AND P.S. MANGALDAI, DIST.
DARRANG, ASSAM-784125

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:GAUTAM MAJUMDAR
S/OLATE GAJENDRA CHANDRA MAJUMDAR
R/O VILL- DAKHIN NALBARI P.O. AND P.S. TANGLA
DIST. UDALGURI
BTR
ASSA

Advocate for the Petitioner : MS. M DEV

Advocate for the Respondent : PP, ASSAM

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

22.02.2024

Heard Ms. M. Dev, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State respondent.

This is an application under Section 407 of the Code of Criminal Procedure, 1973, praying for transfer of the criminal proceeding of N. I. Act Case No. 05/2021 registered under Section 138 of N. I. Act, 1881 which is pending before the Court of learned Chief Judicial Magistrate (in short CJM), Udalguri, BTR to either the Court of learned CJM, Darrang, Mangaldai or the learned CJM, Kamrup (M).

Issue notice to the respondents, returnable within 3 (three) weeks.

Since Mr. Das, learned Additional Public Prosecutor, has entered appearance and accepted notice on behalf of State respondent No. 1, no formal notice is required to be issued to the said respondent. However, he shall be provided with requisite extra-copy of the petition during the course of the day, if not already furnished.

The learned counsel for the petitioner shall take steps for service of notice upon respondent No. 2 by registered post with A/D as well as by usual process within a week from today.

It is submitted by the learned counsel for the petitioner, Ms. Dev that presently the accused/petitioner is facing trial under the N. I. Act Case No. 05/2021 before the Court of learned CJM, Udalguri and the said case is at the stage of DW, but, the accused/petitioner is being threatened by the respondent No.2 and he was asked not to appear before the Court or adduce any witnesses in connection with this case. Accordingly, he is not in a position to appear before the learned CJM, Udalguri and in this regard, he also lodged an FIR before the Officer-in-Charge, Udalguri stating that the matter is still under investigation. Accordingly, he

prays for stay of the further proceedings of N. I. Act Case No.05/2021 till disposal of the instant criminal proceeding which has been filed for transfer of the N. I. Case No. 05/2021, pending in the court of learned CJM, Udalguri to the Court of learned CJM, Darrang, Mangaldai or Kamrup (M).

Considering the submissions of the learned counsels of both sides, further proceeding of the N. I. Act Case No. 05/2021 registered under Section 138 of N. I. Act, 1881 pending before the Court of learned CJM, Udalguri, BTR to the Court of learned CJM, Darrang, Mangaldai or Kamrup (M), stands stayed till next returnable date.

List the matter after **3 (three) weeks**.

JUDGE

Comparing Assistant