

GAHC010117702020



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

Case No. : PIL(Suo Moto)/5/2020

XXXX
GUWAHATI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE ADDL. CHIEF SECRETARY, HOME AND POLITICAL
DEPARTMENT, JANATA BHAWAN, DISPUR, GUWAHATI-781006

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ASSAM POLICE HEADQUARTERS
GUWAHATI -781007

3:THE ADDL. DGP (PROSECUTION)
ASSAM
ASSAM POLICE HEADQUARTERS
ULUBARI
GUWAHATI-78100

Advocate for the Petitioner : MR. T J MAHANTA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

03.01.2023

(R.M. Chhaya, CJ)

Heard Mr. P. P. Dutta, learned counsel for Mr. T. J. Mahanta, learned Senior Counsel for the Gauhati High Court. Also heard Mr. D. Nath, learned Senior Government Advocate, Assam, appearing for the State of Assam and its authorities, and Mr. Manash Haloi, learned counsel appearing for the CBI.

2. It was noticed by the learned Single Judge of this Court in the proceedings of Bail Application No. 1399/2020 that the Investigating Officer in the said case had not taken any steps to call for the return of case diary, or to complete the investigation and to file charge-sheet, which resulted into the possibility and opportunity for the accused/petitioners to be enlarged on default bail. Therefore, *suo motu* cognizance of such lapse on the part of the Investigation Officer was taken by this Court by way of this PIL (Suo Motu) so that appropriate measures be taken and appropriate guidelines be issued to eradicate any such recurrence which compels the court to grant bail even in serious offences.

3. On notice being issued by this Court, an affidavit-in-opposition is filed by the Secretary to the Government of Assam, Home (A) Department, on 30.10.2020, wherein the various steps taken by the State authorities, pursuant to the order dated 04.09.2020 passed by this Court in the present PIL proceedings, to remove the bottlenecks in submission and collection of case diaries have been enumerated. By a further affidavit dated 30.09.2021, it has been brought on record that as per the order passed by this Court on 26.03.2021, Very High Frequency (VHF) Stations have been decided to be opened in 8 (eight) districts, namely, Kamrup (Metro), Nagaon, Barpeta, Silchar, Dhubri, Hojai, Tezpur and Karimganj. The respondent authorities have also

brought on record the efforts made to comply with the directions to set up VHF Stations in the aforesaid eight districts. The record indicates that efforts are being made to install VHF Stations at the aforesaid eight districts.

4. Mr. D. Nath, learned Senior Government Advocate has produced on record the Office Memorandum dated 16.12.2020, issued by the Government of Assam, Home & Political Department, regarding formulation of Standard Operating Procedure (SOP) for submission of case diary before the High Court. The SOPs formulated pursuant to the order passed by this Court, are as under:

“1) The office of the Public Prosecutor shall place the requisition through their official e-mail and inform the concerned Deputy Commissioner of Police (DCP)/Superintendent of Police (SP) on their official e-mail about submission of the case diary and also intimate about return of case diary once the work related to case diary is completed in the Court.

2) The office of Public Prosecutor shall send the information to concerned DCP/SP in the prescribed form as per Annexure-A.

3) The DCP/SP of each police district shall appoint a Nodal Officer in the rank of Additional Commissioner of Police/Addl. Superintendent of Police (ASP)/Deputy Superintendent of Police (DSP) who will act as District Nodal Officer for ensuring and monitoring submission and collection of Case Diaries from Court. The Superintendent of Police shall intimate the name & designation of the Nodal Officer to the Director General of Police, respective Range Inspector General of Police (IGP)/Deputy Inspector General of Police (DIGP) and the Public Prosecutor, Gauhati High Court from time to time. The Nodal Officer after receiving the communication about submission of case diary shall maintain the details in a register (Physical or Digital) and shall inform the concerned officer-in-charge.

4) The case diary shall be sent by the concerned Officer-in-Charge of the Police

6) In cases where the District Nodal Officers are unable to receive case diary from the Public Prosecutor, High Court within 30 days from the date of initial submission, the matter shall be brought to the notice of the concerned Range IGP/DIGP through the DCP/SP concerned. If the case diary is not received within 60 days from the date of submission, the Criminal Investigation Department (CID) shall take up with the Public Prosecutor, Gauhati High Court for immediate resolution.

7) The office of the Public Prosecutor would inform the concerned Districts/Organisations with copy to respective Range IGP/DIGP and CID of instances where the case diaries are likely to remain with the Court beyond 15 (fifteen) days after the matter was listed.

8) *The Director General of Police would form core groups in the districts to examine the feasibility of submitting case diaries digitally with concurrence of the Hon'ble High Court."*

5. Considering the aforesaid, following directions are issued:

(i) That the State Government shall comply with the earlier order dated 26.03.2021 and complete the installation of VHF Stations in 8 (eight) districts, i.e. Kamrup (Metro), Nagaon, Barpeta, Silchar, Dhubri, Hojai, Tezpur and Karimganj and make the VHF Stations operative as early as possible, preferably by 30.06.2023.

(ii) The State Government is further directed to issue appropriate Office Memorandum indicating Standard Operating Procedures by way of guidelines, as brought on record before this Court, within a period of four weeks from today.

(iii) The State Government shall see that the guidelines provided in the SOP are

adhered to both by Public Prosecutors as well as the Assam Police in its true letter and spirit.

(iv) The State Government shall adhere to the directions issued by this Court.

With the aforesaid observations the present PIL proceedings stand closed.

JUDGE

CHIEF JUSTICE

Comparing Assistant