

THE GAUHATI HIGH COURT AT GUWAHATI
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
NOTIFICATION NO. 100

Dated Guwahati, the 14th August, 2023

Pursuant to the directions issued by the Hon'ble Supreme Court of India vide order dated 31.07.2023 passed in *Criminal Appeal No. 2207 of 2023*, with a view to ensure that the police do not arrest the accused unnecessarily and Magistrates do not authorize detention casually and mechanically, the Gauhati High Court is pleased to notify the said directions, for all the Courts dealing with various offences, under its jurisdiction:

1. The police shall not automatically make an arrest when a case under Section 498-A IPC is registered. The police shall first satisfy themselves about the necessity for arrest under the parameters laid down in *Arnesh Kumar -v/s- State of Bihar and ANR [Criminal Appeal No.1277 of 2014]* flowing from Section 41 CrPC;
2. All police officers shall be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);
3. The police officer- shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
4. The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;
5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;
6. Notice of appearance in terms of Section 41-A CrPC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.
8. Authorizing detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the Gauhati High Court.
9. The directions as aforesaid shall not only apply to the case under Section 498-A IPC or Section 4 of the Dowry Prohibition Act, but also such cases where offence is punishable with imprisonment for terms which may be less than seven years or which may extend to seven years, whether with or without fine.

This Notification shall come into force with immediate effect.

By Order,
Sd/-
Aparna Ajitsaria
REGISTRAR GENERAL

Memo No. HC. III -07/2015/4663-4695/ G, Dated Guwahati, the 14th August, 2023.

Copy to:-

1. The Secretary General, Supreme Court of India, New Delhi.
2. The Advocate General, Assam/ Nagaland/ Mizoram / Arunachal Pradesh for information.
3. The Director General of Police, Assam/ Nagaland/ Mizoram / Arunachal Pradesh. *He/ She is requested to circulate this Notification to all concerned Police departments for compliance.*
4. The L.R. & Secretary to the Govt. of Assam, Judicial Department, Dispur, Guwahati, Assam. *He is requested to circulate this Notification to all State Government departments for compliance.*
5. The Law Secretary, Nagaland, Mizoram/ Arunachal Pradesh. *He/ She is requested to circulate this Notification to all State Government departments for compliance.*
6. The Registrar (Administration/ Vigilance/ Judicial/ Establishment), Gauhati High Court, Guwahati.
7. The Registrar, Gauhati High Court, Kohima Bench, Kohima / Aizawl Bench, Aizawl/ Itanagar Permanent Bench, Yupia, *for information and circulation amongst all the Courts in their respective States for compliance.*
8. The Registrar-cum-Principal Secretary to Hon'ble the Chief Justice, Gauhati High Court, Guwahati. Guwahati.
9. The District & Sessions Judge,

Kamrup (M)/ Kamrup/ Morigaon/ Nagaon/ Jorhat/ Golaghat/ Sivasagar/ Dibrugarh/ Tinsukia/ Dhemaji/ Lakhimpur/ Sonitpur/ Hojai/ Charaideo/ Udalguri/ Darrang/ Nalbari/ Barpeta/ Bongaigaon/ Kokrajhar/ Dhubri/ Goalpara/ Cachar/ Chirang/ Karimganj/ Hailakandi /Baksa /Karbi Anglong/ South Salmara-Mankachar/ Dima Hasao/ Bajali/ Biswanath/ Majuli/ West Karbi Anglong, Assam.

He/ She is requested to circulate this Notification amongst the Judicial Officers under his/ her jurisdiction for compliance.

7. The Secretary, Gauhati High Court Legal Services Committee, Gauhati High Court, Guwahati.
11. The Member Secretary, Assam State Legal Services Authority/ Nagaland State Legal Services Authority/ Mizoram State Legal Services Authority/ Arunachal Pradesh State Legal Services Authority.
12. The Chairman, Bar Council of Assam, Nagaland, Mizoram, Arunachal Pradesh and Sikkim.
13. The President/ Secretary General, Gauhati High Court Bar Association, Guwahati.
14. The President/ General Secretary, Gauhati High Court Advocates' Association, Guwahati.
15. The President/ Secretary, All Assam Lawyers' Association, Guwahati.
16. The President/ Secretary, Lawyers' Association, Guwahati.
17. The Director, Law Research Institute, Gauhati High Court, Guwahati.
18. The Senior Information Technology Consultant, Gauhati High Court, Guwahati.
19. The Joint Registrar (_____), Gauhati High Court, Guwahati.
20. The Deputy Registrar (_____), Gauhati High Court, Guwahati.
21. The Asstt. Registrar (_____), Gauhati High Court, Guwahati.
22. The Librarian-cum-Research Officer, Gauhati High Court, Guwahati.
23. The P.S. to Hon'ble Mr. /Mrs. Justice _____, Gauhati High Court, Guwahati.
24. The Project Manager, Gauhati High Court, Guwahati. He is requested to upload this Notification in the website of the Gauhati High Court.
25. The Court Manager, Gauhati High Court, Guwahati.
26. The A.O.(J), _____ Section, Gauhati High Court, Guwahati.
27. The Court Master, Court No. _____, Gauhati High Court, Guwahati.
28. The Court Officer Nos. 1 & 2, Gauhati High Court, Guwahati.
29. The Chief Security Officer, Gauhati High Court, Guwahati.
30. The Systems Officer, Gauhati High Court, Guwahati.
31. The C.A. to the Registrar General, Gauhati High Court, Guwahati.
32. The Gauhati High Court Notice Boards.

Aparna Ajitbaria
REGISTRAR GENERAL 14.8.23
14.08.23