

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

NOTIFICATION NO. 17

Dated: Guwahati, the 15th March, 2024

Pursuant to the order dated 23-06-2023 passed by the Hon'ble Gauhati High Court in *Criminal Appeal (J) 40/2022 (Dipak Nayak Vs. The State of Assam & 2 Ors)*, Hon'ble the Chief Justice has been pleased to adopt the following Practice Directions for the proceedings, viz. Criminal Appeals/Revisions or Criminal Petitions filed under the POCSO Act in the Gauhati High Court and the Outlying Benches:

(a) Before granting bail to a person who is accused of an offence triable under sub-Section (3) of Section 376 or Section 376-AB or Section 376-DA or Section 376-DB of the Indian Penal Code, the High Court or the Court of Session shall give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application; and

(b) The Courts shall ensure that the Investigating Officer has, in writing as per "Annexure A", communicated to the informant or any person authorized by her that her presence is obligatory at the time of hearing of the application for bail to the person under sub-Section (3) of Section 376 or Section 376-AB or Section 376-DA or Section 376-DB of the Indian Penal Code. "Annexure A" shall be filed by the I.O. along with the Reply/Status Report to such bail application and the Courts shall make all endeavour to ensure presence of the informant or any person authorized by her.

(c) In every Bail Application / Criminal Appeal / Criminal Revision / Criminal Petition arising from cases involving offences under the POCSO Act and those covered by Section 439 (1A) CrPC; the Registry shall

(i) Serve a copy of such Bail Application/ Criminal Appeal/Criminal Revision/Criminal Petition to the Public Prosecutor concerned who, in turn, shall forward the same to the Investigating Officer

concerned, or the Officer-in-Charge of the concerned Police Station, through email and also as a hard copy requiring the officer(s) to apprise the victim/guardian/ support person regarding filing of such proceedings before the High Court.

- (ii) In every such Bail Application/Criminal Appeal/Criminal Revision/Criminal Petition filed in the High Court, it shall be mandatory to implead the victim/guardian/support person, as the case may be. While making such impleadment identity of the victim shall be properly screened strictly adhering to the mandate of Section 33(7) of the POCSO Act. Upon impleadment of the victim/guardian/ support person in the Bail Application/Criminal Appeal/Criminal Revision/ Criminal Petition, as the case may be, formal notice shall be issued to such victim/guardian/support person through the Investigating Officer/Officer-in-Charge of the concerned Police Station. It shall be the responsibility of the officer(s) to get the notice served.
- (iii) The notice issued to the victim/guardian/ support person shall also contain a stipulation that in case he/she is unable to engage a counsel of choice, services of free legal aid counsel shall be provided to represent him/her in the proceedings filed before the High Court.

This Notification shall come into force with immediate effect.

By Order,
Sd/ S. Dhar

REGISTRAR (JUDICIAL)

Memo No. HC. III - 07/2015/1110-1136/ G dated 15-03-2024.

Copy to:-

1. The Advocate General, Assam/ Nagaland/ Mizoram / Arunachal Pradesh for information.
2. The L.R. & Secretary to the Govt. of Assam, Judicial Department, Dispur, Guwahati, Assam.
3. The Registrar (Vigilance/ Administration/ Judicial/ Establishment), Gauhati High Court, Guwahati.

4. The Registrar, Gauhati High Court, Kohima Bench, Kohima / Aizawl Bench, Aizawl/ Itanagar Permanent Bench, Yupia.


(He is requested to circulate this Notification amongst all the Subordinate Courts and Bar/ Advocates' Associations of his State).

5. The Registrar-cum-Principal Secretary to Hon'ble the Chief Justice, Gauhati High Court, Guwahati. Guwahati.
6. The District & Sessions Judge,
Bajali / Baksa / Barpeta / Biswanath / Bongaigaon / Cachar / Charaideo / Chirang / Darrang / Dhemaji / Dhubri / Dibrugarh / Dima Hasao / Goalpara / Golaghat / Hailakandi / Hojai / Jorhat / Kamrup (M) / Kamrup / Karbi Anglong / Karimganj / Kokrajhar / Lakhimpur / Majuli / Morigaon / Nagaon / Nalbari / Sivasagar / Sonitpur /South Salmara-Mankachar / Tinsukia / Udalguri / West Karbi Anglong, Assam.

(He/she is requested to circulate this Notification amongst all the Judicial Officers and Bar/ Advocates' Associations of his /her district).

7. The Chairman, Bar Council of Assam, Nagaland, Mizoram, Arunachal Pradesh and Sikkim.
8. The President/Secretary General, Gauhati High Court Bar Association, Guwahati.
9. The President/General Secretary, Gauhati High Court Advocates' Association, Guwahati.
10. The President/Secretary, All Assam Lawyers' Association, Guwahati.
11. The President/Secretary, Lawyers' Association, Guwahati.
12. The Senior Information Technology Consultant, Gauhati High Court, Guwahati.
13. The Joint Registrar (_____), Gauhati High Court, Guwahati.
14. The Director, Law Research Institute, Gauhati High Court, Guwahati.
15. The Deputy Registrar (_____), Gauhati High Court, Guwahati.
16. The Librarian-cum-Research Officer, Gauhati High Court, Guwahati.
17. The Asstt. Registrar (_____), Gauhati High Court, Guwahati.
18. The Court Manager, Gauhati High Court, Guwahati.
19. The Special Officer, Translation Wing, Gauhati High Court, Guwahati.
20. The Project Manager, Gauhati High Court, Guwahati. *He is requested to upload this Notification in the website of the Gauhati High Court.*
21. The P.S. to Hon'ble Mr. /Mrs. Justice _____, Gauhati High Court, Guwahati.
22. The AO(J), _____, Section, Gauhati High Court, Guwahati.

23. The Court Master, Court No. _____, Gauhati High Court, Guwahati.
24. The Court Officer Nos. 1 & 2, Gauhati High Court, Guwahati.
25. The Senior Systems Officer, Gauhati High Court, Guwahati.
26. The C.A. to the Registrar General, Gauhati High Court, Guwahati.
27. The Gauhati High Court Notice Boards.

 15.03.2024
REGISTRAR (JUDICIAL)

ANNEXURE-A

NOTICE TO INFORMANT OF OBLIGATION TO BE PRESENT AT THE TIME OF HEARING OF THE APPLICATION FOR BAIL TO THE PERSON ACCUSED OF THE OFFENCE UNDER SUB-SECTION (3) OF SECTION 376 OR SECTION 376-AB OR SECTION 376-DA OR SECTION 376-DB OF THE INDIAN PENAL CODE, 1860

You are hereby informed that the person accused in FIR No. _____ dated _____ PS _____ under section _____ has filed an application for grant of bail which is listed for hearing in the Hon'ble Gauhati High Court, Guwahati (Principal Seat/Outlying Benches) / Hon'ble Court of _____, Special Judge / Sessions Judge / Addl. Sessions Judge, _____ District, _____ State.

Kindly take notice that as per Section 439(1-A) of the Code of Criminal Procedure, 1973 your presence / presence of any person authorised by you is obligatory at the time of hearing of the above mentioned bail application.

Kindly take note that if you are unable to engage a counsel of choice, services of free legal aid counsel shall be provided to represent him/her in the proceedings filed before the High Court.

(S/d)
Informant

(S/d)
Investigating Officer

I, _____, OC of P.S. _____ do hereby certify that the I.O. of the above mentioned FIR has duly communicated the informant that her presence / presence of any person authorized by her is obligatory at the time of hearing of the bail application of the person accused in FIR No. _____ dated _____ .

(S/d)
OC, P.S. _____