

GAHC010084962021



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

Case No. : I.A.(Crl.)/258/2021

ABDUL KALAM
S/O. MD. SAIFULLAH, R/O. UNCHAHAR, P.O. BAJAORA, P.S. PROMPAT,
DIST. IMPHAL EAST, MANIPUR- 795005

VERSUS

THE UNION OF INDIA AND ANR.
REP. BY NCB

2:ANJANI KUMAR
INTELLIGENCE OFFICER
NARCOTICS CONTROL BUREAU
GUWAHATI ZONAL UNIT
VIP ROAD
RUPKUNWAR PATH CHACHAL
GUWAHATI- 781022

Advocate for the Petitioner : MS. S K NARGIS

Advocate for the Respondent : SC, NCB

Linked Case : I.A.(Crl.)/256/2021

SOHRAB KHAN

S/O. LATE JALIL KHAN
R/O. SALEMPUR
P.O. BAJAORA
P.S. DOBHI
DIST. GAYA
BIHAR- 824201

VERSUS

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INTELLIGENCE OFFICER
NARCOTICS CONTROL BUREAU
GUWAHATI ZONAL UNIT
VIP ROAD
RUPKUNWAR PATH
CHACHAL
GHY- 22

Advocate for : MS. A MESEN
Advocate for : SC
NCB appearing for THE UNION OF INDIA AND ANR.

Linked Case : CrI.A./360/2019

SHRI RAM MILAN AND ANR
S/O- LATE SHIV KUMAR
R/O- UNCHAHAR
P.O. BAJAORA
P.S. UNCHAHAR
DIST.- RAEBARELI
UTTAR PRADESH- 229404.

2: MD. ABDUL KALAM
S/O- MD. SAIFULLAH
R/O- MINUTHONG GOLAPATTI
P.O. BAJAORA
P.S. PROMPAT
DIST.- IMPHAL EAST

MANIPUR- 795005.
VERSUS

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GUWAHATI ZONAL UNIT
VIP ROAD
RUPKUNWAR PATH CHACHAL
GUWAHATI- 781022.

Advocate for : MS. S K NARGIS
Advocate for : SC
NCB appearing for THE UNION OF INDIA AND ANR

Linked Case : CrI.A./393/2019

MD. SOHRAB KHAN
S/O- LATE JALIL KHAN
R/O- SALEMPUR
P.O. BAJAORA
P.S. DOBHI
DIST.- GAYA
BIHAR- 824201.

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GUWAHATI ZONAL UNIT
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RUPKUNWAR PATH
CHACHAL
GUWAHATI- 781022.

Advocate for : MR A K AZAD
Advocate for : SC
NCB appearing for THE UNION OF INDIA AND ANR

Linked Case : CrI.A./288/2019

MD. MUJIBUR RAHMAN
S/O- MD. SAIFULLAH OF HATTA
P.O. AND P.S. POROMPAT
IMPHAL EAST DISTRICT
MANIPUR
PIN- 795005.

VERSUS

NARCOTICS CONTROL BUREAU
INDIA

Advocate for : MR H R A CHOUDHURY
Advocate for : SC
NCB appearing for NARCOTICS CONTROL BUREAU

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 07.05.2021
(K.R. Surana, J)

Heard Mrs. S.K. Nargis, learned counsel for the applicant and Ms. P. Das, learned counsel, appearing on behalf of the learned standing counsel for NCB, the opposite parties herein.

This is an application for modification of the order dated 19.04.2021 passed by this Court in I.A.(CrI) 200/2021 whereby taking note of the fact that the mother of the applicant stated to have expired on 02.02.2021, this Court had directed that within 7 (seven) days from the date of receipt of the copy of the order, the opposite party shall made arrangement with the State police of the State of Assam as well as the State of Manipur so as to securely escort the applicant to his village Minuthong, Golpathi, P.S. Prompat, Dist- Imphal (East), Pin- 795001 and by allowing him some time to offer his prayer at the graveyard of his mother, the applicant shall be brought back to the jail where he is now lodged.

The learned counsel for the applicant has submitted that the modification of the order is required because some last rites are required to be performed by the applicant for his deceased mother.

Upon a query made by the Court, the learned counsel appearing on behalf of the opposite party has submitted that along with request to made arrangement to comply with the order dated 19.04.2021, she had communicated the copy of the said order dated 19.04.2021 to the I/O previously and also today morning. It is submitted that she has been informed that several officers of the opposite party (NCB) are suffering from Covid-19, as such, effective steps could not be taken to securely escorting the applicant to his village and back.

It is seen that the opposite party has neither complied with the order dated 19.04.2021 nor they had applied for modification of the said order, as such, the Bench is constrained to observe that by not complying with the directions contained in order dated 19.04.2021 passed in I.A.(CrI) 200/2021, the opposite party, prima facie, is in contempt of non-compliance of the order passed.

Moreover, the Court is of the considered opinion that instead of communicating with the I/O, the learned counsel for the opposite party ought to have communicated the order to the highest authority of NCB available in the State, which we are informed is the Zonal Director.

At this stage, the learned counsel for the opposite party has prayed for time till

10.05.2021 so as to apprise this Court about steps taken to comply with the directions contained in order dated 19.04.2021.

In light of the submissions made by the learned counsel for both sides, the opposite party through the Zonal Director is directed to apprise this Court whether they intend to carry out the order passed by this Court on 19.04.2021, and if so, what steps has been taken.

The prayer for modification of the order dated 19.04.2021, as made in this present I.A. to allow the applicant to be enlarged on interim bail would be considered on the next date of listing.

It is made clear that the Jail Superintendent of Central Jail, Guwahati where the applicant is presently lodged shall, on receipt of communication from the opposite party (NCB), would do the needful.

The Registry shall list the matter as a fixed item on 10.05.2021.

Let a copy of the order be provided to Ms. P. Das, learned counsel appearing on behalf of the opposite party.

JUDGE

JUDGE.

Comparing Assistant