

GAHC010251652023



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

Case No. : WP(C)/6691/2023

SANJAY JAIN
S/O- SRI GYAN CHAND JAIN, R/O- GYANSHREE, 109-D, R.G. BARUAH
ROAD, GANESHGURI, GUWAHATI, DIST. KAMRUP(M), ASSAM-781006.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER OF SECRETARY, HOME AND
POLITICAL AFFAIRS DEPARTMENT, GOVERNMENT OF ASSAM, DISPUR,
GUWAHATI-781006.

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI
DIST. KAMRUP(M)
ASSAM
PIN- 781007.

3:MOHAN LAL MEENA
THE SUPERINTENDENT OF POLICE
JORHAT
ATILAGAON
DIST. JORHAT
ASSAM
PIN- 785001.

4:THE OFFICER-IN-CHARGE
JORHAT POLICE STATION
MAHATMA GANDHI ROAD
OPPOSITE NOKIA CARE
DIST. JORHAT

ASSAM
PIN- 785001.

5:KAKUMONI CHITRAKAR WSI (P)

JORHAT POLICE STATION
MAHATMA GANDHI ROAD
OPPOSITE NOKIA CARE
DIST. JORHAT
ASSAM
PIN- 785001.

6:DANDIRAM BORA
CIRCLE INSPECTOR
MARIANI CIRCLE
MARIANI POLICE STATION MARIANI MAIN ROAD
MARIANI
ASSAM
DIST. JORHAT
PIN- 785634

Advocate for the Petitioner : MR H BARUAH

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

22.11.2023

Heard Shri H Baruah, learned counsel for the petitioner.

The petitioner is an accused in Jorhat PS Case No.929/2016. The petitioner, who had apprehended arrest in the said police case, after a long period of 6 years, had approached this Court with an application for anticipatory bail under Section 438 Cr.PC and this Court in the said application, registered as AB/1868/2023, had passed an order dated 08.08.2023 by allowing the application and the interim order dated 31.05.2023 was made absolute.

The specific grievance of the petitioner is that while the case has been

registered in the Jorhat Police Station in which the petitioner was also examined and his statement recorded under Section 161 Cr.PC, he has been served with a notice issued by the respondent no. 6 who is the Circle Inspector, Mariani Circle. It is submitted that the said respondent no. 6 does not have any jurisdiction to issue the impugned notice under Section 41(A) of the Cr.PC.

Shri Baruah, learned counsel for the petitioner has also referred to a consequential communication dated 05.11.2023 by the Dispur Police Station by which the action taken by the respondent no. 6 has been informed.

This Court has noticed that the impugned notice under Section 41(A) of the Cr.PC has been issued to the petitioner in the stationery meant for Dispur Police Station by making certain incomplete correction by hand.

Be that as it may, let notice be issued, returnable on 11.12.2023.

Ms. S Baruah, learned State Counsel, Assam accepts notice on behalf of the respondent nos. 1, 2 and 4.

Extra copies of the writ petition be served upon the learned State Counsel by tomorrow i.e., 23.11.2023.

Steps for service of notice upon the respondent no. 3, 5 and 6 be taken by registered post with A/D within 3 days.

Shri Baruah, learned counsel for the petitioner prays for an interim order.

Considering the facts and circumstances, this Court is of the *prima facie* opinion that the impugned action does not appear to have the sanction of law.

Accordingly, the impugned notice dated 27.10.2023 and all further actions directing appearance of the petitioner at the instance of Circle Inspector, Mariani Circle shall remain suspended.

JUDGE

Comparing Assistant