

GAHC040011142025



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

**Case No. : Crl.Petn./152/2025**

Major Prateek Dabas and 4 Ors  
Son of Shri Yashwant Dabas, resident of Block, PO Kultana, Tehsil Sanpla, Rohtak  
District, Haryana      2: Lance Havildar Jaspal Singh

Age:

Occupation :

Son of Shri Darshan Singh  
resident Village and PO Kotbaktu  
Bhatinda District  
Punjab.

3: Sepoy Gurjant Singh

Age:

Occupation :

Son of Shri Satnam Singh  
resident of village Sagra  
PO Taipur  
Patiala District  
Punjab.

4: Sepoy Gurdeep Singh

Age:

Occupation :

Son of Shri Karnail Singh  
resident of Village Panjetom  
PO Pathreri  
Ambala District  
Haryana.

5: Sepoy Gurmeet Singh

Age:

Occupation :

Son of Shri Sukhpal Singh  
resident of Village and PO Raniwallah

Taran Taran District  
Punjab

VERSUS

The State of AP  
represented by the PP of AP

**Advocate for the Petitioner** : Sanjay Kr. Medhi, CGC,

**Advocate for the Respondent** : P P of AP, Loma Kurdu, SC SIT

**BEFORE**  
**HONOURABLE MR. JUSTICE BUDI HABUNG**

**ORDER**

**14.08.2025**

Heard Mr. S. K. Medhi, learned CGC for the petitioners. Also heard Mr. T. Kyamdo, learned counsel appearing on behalf of Mr. L. Kurdu, learned Standing Counsel, SIT, for the respondent.

**2.** By filing this petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioners have challenged the following:

(i) Charge Sheet No. 54/2023 dated 04.12.2023, filed against the accused/petitioners;

(ii) Order dated 05.06.2024 by which the learned Court of the Judicial Magistrate First Class, Yupia, has taken cognizance of the offences under Sections 304/326/323/34 of the IPC; and

(iii) Order dated 30.06.2025 by which the learned Judicial Magistrate First Class, Yupia, has committed the case to the Court of the Sessions Judge, Yupia.

- 3.** Issue fresh notice to the respondent, returnable on 24.09.2025.
- 4.** Since Mr. Kyamdo, learned counsel, has entered appearance and accepted notice on behalf of the SIT, no formal notice is required to be issued to the said respondent. However, he shall be provided with requisite extra-copy of the petition, if not already served, during the course of the day.
- 5.** Mr. Medhi, learned counsel for the petitioners, has submitted that the provision under Section 6 of the Armed Forces (Special Powers) Act, 1958 is mandatory, and non-compliance therewith would vitiate the prosecution and legal proceedings. He further submits that under Section 197(2) of the Cr.P.C., corresponding to Section 218 (2) of the BNSS, also protects the Armed Forces from prosecution without obtaining prior sanction. However, in the instant case, the charge sheet filed by the Investigating Officer, the subsequent taking cognizance of the case, and the committal proceedings drawn by the learned Judicial Magistrate First Class were all done without obtaining the necessary sanction under the aforesaid provisions of law. Therefore, at this stage, the petitioner prays for stay/suspension of the proceedings in Sessions Case No. 17/2025 arising out of the Longding P. S. Case No. 27/2020, pending disposal of the instant petition.
- 6.** In this context, Mr. Kyamdo, learned counsel appearing on behalf of the SIT, has raised no objection and prefers to call for the scanned copy of the TCR.
- 7.** Considering the submissions of the learned counsels for both sides, further proceedings in Sessions Case No. 17/2025, arising out of Longding P.S. Case No. 27/2020 [G.R. Case No. 1066/2022], and the orders dated 05.06.2024 and 30.06.2025 passed therein, shall remain stayed until the next returnable date.

- 8.** Call for the scanned copy of the Trial Court Record.
  
- 9.** List the matter on **24.09.2025**.

**JUDGE**

**Comparing Assistant**