

GAHC010212812023



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

Case No. : I.A.(Civil)/2855/2023
in
WP(C) 2946/2023

MD. JAMAL SHEIKH @ JAMALUDDIN
S/O- LATE JANIK DEWANI @ JANIB DEWANI @ JANIB ALI, R/O- VILLAGE
NO. 1 GADHOWA CHAPARI (NON-K GADHOWA CHAPARI), P.S. AND P.O.
MANGALDAI, DIST. DARRANG, ASSAM, PIN- 784125.

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY
OF HOME AFFAIRS, SHASTRI BHAWAN, TRILOK MARG, NEW DELHI-1.

2:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTION COMMISSIONER
NEW DELHI-110001.

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6.

4:THE SUPERINTENDENT OF POLICE (BORDER)
DARRANG
P.O. MANGALDAI
DIST. DARRANG
ASSAM
PIN- 784125.

5:THE DEPUTY COMMISSIONER OF DARRANG

P.O. MANGALDAI
DIST. DARRANG
ASSAM
PIN- 784125.

6:THE STATE COORDINATOR OF NATIONAL REGISTER OF CITIZENS
BHANGAGARH
GUWAHATI
ASSAM
PIN- 781004.

7:THE ELECTORAL REGISTRATION OFFICER
MANGALDAI (SC) LAC
P.O. MANGALDAI
DIST. DARRANG
ASSAM
PIN- 784125

Advocate for the Petitioner : MD H R AHMED

Advocate for the Respondent : DY.S.G.I.

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

HON'BLE MR. JUSTICE BUDI HABUNG

ORDER

28-09-2023

(M.R.Pathak, J)

Heard Mr. H. R. Ahmed, learned counsel for the applicant/petitioner and Ms. L. Devi, learned CGC as well as Standing counsel, NRC for the opposite party Nos. 1 & 6. Also heard Mr. A.I.Ali, learned Standing counsel, Election Commission of India for the opposite party Nos. 2 & 7; Mr. G. Sarma, learned Standing counsel, Home Department of the State for the opposite party Nos. 3 & 4 and Mr. P. Sarma, learned Government Advocate, Assam for the opposite party No. 5.

2. By the impugned judgment/opinion dated 31.03.2023, the learned Member, Foreigners' Tribunal (1st), Mangaldai, Darrang, Assam in F.T. Case No. 01/2022 arising out of Reference Case No. 01/2022

opined that the applicant/proceedee, i.e., **Md. Jamal Sheikh @ Jamaluddin** is a foreigner, who had illegally entered into the territory of India (Assam) on or after 25.03.1971.

3. It is submitted that pursuant to said opinion dated 31.03.2023 passed in F.T. Case No. 01/2022 by the learned Foreigners' Tribunal (1st), Darrang, Mangaldai, noted above, the petitioner was taken into custody on 07.06.2023 and since then he is detained in the detention camp at Matia, Goalpara, Assam.

4. It is stated that the applicant/petitioner is about 62 years old and has been suffering from various old aged ailments.

5. By this interlocutory application, the applicant/petitioner prayed for a direction to stay the operation of the impugned judgment/opinion dated 31.03.2023 passed in said F.T. Case No. 01/2022 and the consequential order for his release from the said detention camp.

6. After hearing the learned counsels for the parties, the applicant/petitioner, namely, **Md. Jamal Sheikh @ Jamaluddin**, resident of Village – No. 1 Gadhawa Chapari (Non-K Gadhawa Chapari), P.S.- Mangaldai, District-Darrang, who is in the detention camp at Matia, Goalpara in terms of the impugned judgment/opinion dated 31.03.2023 passed by the learned Member, Foreigners' Tribunal (1st), Mangaldai, Darrang, Assam in F.T. Case No. 01/2022, is directed to be released immediately from the detention camp at Matia, Goalpara on furnishing a bail bond of Rs. 5,000/- with one local surety of the like amount to the satisfaction of the Superintendent of Police (Border), Darrang.

7. While releasing the applicant/petitioner on bail, the authorities concerned in the Superintendent of Police (Border), Darrang shall obtain the biometrics of the iris of both eyes, the fingerprints of both hands and the photographs of the petitioner as well as the necessary information and documentation as required under the Rules from him for securing his presence, whereafter he shall be allowed to remain on bail.

8. The applicant/petitioner shall give the full details about his new address and/or destination before the Superintendent of Police (Border), Darrang, Mangaldoi and without obtaining any prior written permission from the said authority, he shall not leave the jurisdiction of said Superintendent of Police (Border), Darrang.

9. Failure on the part of the applicant/petitioner to comply with the aforesaid directions, bail granted to him shall stand automatically vacated and he shall be liable to be taken back into custody.

- 10.** Registry shall inform the Superintendent of Police (Border), Darrang about this order forthwith.
- 11.** With the above observation and direction, this interlocutory application stands disposed of.

JUDGE

JUDGE

Comparing Assistant