

GAHC010187262024



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

Case No. : I.A.(Civil)/2828/2024

MD MUKTAR HUSSAIN @ ALI @ MD. MUKFAR HUSSAIN
S/O- LATE ERSAD ALI @ ASAD ALI,
VILLAGE PUB CHENGULIA, (NOW SATBHINIR TUP),
P.S- SORBHOG, DIST- BARPETA, PIN-781317

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, DEPARTMENT OF
HOME, NEW DELHI- 110001

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

3:THE DISTRICT COMMISSIONER
BARPETA
PIN-781301

4:THE SUPERINTENDENT OF POLICE (BORDER)
BARPETA
DIST- BARPETA
PIN-781301

5:THE ELECTION COMMISSION
GOVT. OF INDIA
NEW DELHI-1

6:THE STATE COORDINATOR OF NRC
ASSAM
GUWAHATI-3

Advocate for the Petitioner : MR. A ROSHID, MS. T BEGUM

Advocate for the Respondent : DY.S.G.I., SC, ECI,SC, F.T,GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 08.11.2024
(K.R. Surana, J)

Heard Ms. T. Begum, learned counsel for the applicant. Also heard Mr. S.P. Choudhury, learned CGC appearing for the respondent No.1; Mrs. A. Verma, learned Standing counsel, Home Department appearing for the respondents No. 2 and 4 and Mr. P. Sarma, learned Government Advocate appearing for the respondent No.3 and Ms. S.T. Khan, learned counsel appearing on behalf of Ms. P. Baruah, learned Standing counsel appearing for the respondent No.5. There is no representation on behalf of respondent No.6.

2. By filing this Interlocutory Application, the applicant, who is the petitioner in the connected WP(C) 946/2024 has prayed for releasing him from detention at the detention camp in Goalpara, where he is lodged pursuant to opinion dated 25.08.2023, passed by the Member, Foreigners' Tribunal 11th Barpeta in F.T. Case No.904/2016 arising out of IM(D)T Case No.879/2000.

3. Learned counsel for the applicant has submitted that the applicant has sufficient documents to prima facie show that he is not a foreigner and therefore, the learned counsel for the applicant prays for bail.

4. Prayer for bail and release from detention is opposed by the learned Standing counsel, Home Department.

5. Pursuant to the order dated 27.02.2024, records of the concerned case is

received from the learned Foreigners' Tribunal.

6. On perusal of the materials on record, the Court is of the considered opinion that the matter requires to be heard by examining the records. Accordingly, the Court is of the considered opinion that it would be appropriate to release the applicant namely Md. Muktar Hussain @ Ali @Md. Mukfar Hussain from detention.

7. Accordingly, it is provided that on production of the certified copy of this order, the Superintendent of Police (Border), Barpeta shall do the needful to have the petitioner produced from the detention centre, Matia, Goalpara within 3 (three) working days from the date of furnishing of the certified copy of this order and if the petitioner submits a bail bond of Rs.5,000/- (Rupees Five Thousand only) with one surety of the like amount to the satisfaction of the Superintendent of Police (Border), Barpeta, he will be released on bail after recording the biometrics of the iris of both eyes, the fingerprints of both hands and the photographs of the petitioner shall be obtained, whereafter, he shall be allowed to remain on bail.

8. It is also provided that the petitioner shall not leave the jurisdiction of Superintendent of Police (Border), Barpeta without prior intimation in writing to the said authority.

9. Interlocutory Application stands allowed and disposed of.

JUDGE

JUDGE

Comparing Assistant