

GAHC010198102024



AS:12075-DB

2024:GAU-

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

Case No. : I.A.(Civil)/3084/2024

HATEM ALI @ HATEM MIAH
SON OF LATE MESER ALI, RESIDENT OF BAGHBAR BAZAR, MOUZA AND
P.S. BAGHBAR, DISTRICT- BARPETA (ASSAM), PIN- 781308

VERSUS

THE UNION OF INDIA AND 6 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
MINISTRY OF HOME AFFAIRS, GOVERNMENT OF INDIA, NEW DELHI-1

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6

3:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI-6

4:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
ASSAM
ACHYUT PLAZA
BHANGAGARH
GUWAHATI-5

5:THE ELECTION COMMISSION OF ASSAM
REPRESENTED BY THE COMMISSIONER

BELTOLA-BASISTHA ROAD
HOUSEFED COMPLEX
GUWAHATI-6
ASSAM

6:THE DEPUTY COMMISSIONER
BARPETA
P.O.- BARPETA
DISTRICT- BARPETA (ASSAM)
PIN- 781301

7:THE SUPERINTENDENT OF POLICE (BORDER)
BARPETA
P.O.- BARPETA
DISTRICT- BARPETA (ASSAM)
PIN- 78130

Advocate for the Petitioner : MR. D P BORAH, MR B PAUL,P JHA,MS. S BORO

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

Linked Case : WP(C)/4223/2024

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MOUZA AND P.S. BAGHBAR
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Advocate for : MR. D P BORAH
Advocate for : GA
ASSAM appearing for THE UNION OF INDIA AND 6 ORS.

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

02.12.2024

(K.R. Surana, J)

Heard Mr. D. P. Borah, learned counsel for the appellant. Also heard Mr. G. Sharma, learned Standing Counsel, Foreigner's Tribunal representing respondent Nos. 3 and 7, Ms. L. Devi, learned CGC appearing for respondent No. 1, Mr. H. K. Hazarika, learned Government Advocate appearing for respondent No. 6, and Ms. P. Borah, learned Standing Counsel appearing for the respondent No. 5.

2. By filing this interlocutory application, the applicant who is the petitioner in the connected WP(C)/4233/2024, has prayed for bail for being released from the Transit camp, Matia at Goalpara.

3. The learned counsel for the applicant has submitted that the applicant is the proceedes in FT Case No. 178/2016 arising out of Ref. IM(D)T Case no. 676/03, and in the said case, the learned member, Foreigner's Tribunal No-4, Barpeta has rendered an opinion dated 28.02.2019, thereby declaring the petitioner to be a foreigner of post 25.03.1971 stream, pursuant to which the petitioner has been taken into custody and he is now lodged at Transit Camp, in Matia at Goalpara.

4. The learned counsel for the applicant has also submitted that as per his instructions, the petitioner is a senior citizen of more than 70 years of age, for which he refers to the age provided in the exhibited voters lists.

5. Although the learned Standing Counsel, Foreigner's Tribunal has opposed the prayer for bail, but considering the projection that the petitioner is a senior citizen of more than 70 years, and further taking into consideration, the age given in the affidavit filed in support of the connected writ petition that he is 75 years of age, the Court is inclined to enlarge the petitioner on bail on the following conditions:

(a) The family members of the petitioner shall appear before the Superintendent of

Police (Border), Barpeta and shall furnish a bail bond of Rs. 5,000/- (Rupees Five thousand only) with one local surety of the like amount to the satisfaction of the said authority.

(b) Within 3 (three) days of submission of such bail bond on surety, the Superintendent of Police (Border), Barpeta shall do the needful to take the applicant into his custody and shall record the iris of both eyes, the fingerprints of both hands and the photographs of the petitioner.

(c) Thereafter, the applicant shall be allowed to remain on bail.

6. As a condition for bail, it is provided that the applicant shall not leave the territorial jurisdiction of the Superintendent of Police (Border), Barpeta without prior written intimation.

7. The Interlocutory Application stands allowed and disposed of.

JUDGE

JUDGE

Comparing Assistant