

GAHC010173362024



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

Case No. : I.A.(Civil)/3051/2024

RAHAM ALI @ RAHAM UDDIN
SON OF - LATE MOSLEM UDDIN
RESIDENT OF VILLAGE- SATBOINIRTOP
P.O.- KALAH BANGA
P.S.- BARPETA ROAD
DISTRICT- BARPETA (ASSAM)
PIN- 781315.

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 CO-ORDINATOR
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 (B)
BARPETA
P.O.- BARPETA

DISTRICT- BARPETA (ASSAM)

PIN- 781301.

Advocate for : MR. D P BORAH
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 6 ORS

BEFORE

HON'BLE MR. JUSTICE KALYAN RAI SURANA

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

20.12.2024

(K. R. Surana, J.)

Heard Mr. D. P. Borah, learned counsel for the applicant. Also heard Mr. B. Deka, learned CGC, appearing for respondent No. 1, Mr. G. Sharma, learned Standing Counsel

for the Home Department and FT matters, Mr. H. Kuli, learned counsel appearing on behalf of Mr. A. I. Ali, learned counsel for the Election Commission of India, , and Mr. R. Talukdar, learned Government Advocate, appearing for the State.

2. The applicant is the writ petitioner in the connected writ petition

2. This interlocutory application has been filed for bail by projecting that the applicant, namely, Raham Ali @ Raham Uddin was apprehended on 07.08.2024, pursuant to the opinion dated 30.11.2018,, passed by the learned Member, Foreigners' Tribunal No. 10th, Barpeta, at Bajali, Pathsala in FT Case No. 418/2016, arising out of IM(D)T Case No. 9796/98, by which the applicant was declared to be a foreigner of post 25.03.1971 stream.

3. Pursuant to order dated 23.10.2024, passed by this Court in the connected writ petition, the record of the Tribunal was called for. The same is received. Perused the same for the purpose of considering this interlocutory application for bail.

4. The materials available in the case record require further examination.

5. The prayer for bail has been opposed by the learned Standing Counsel for the Home Department and FT matters, on the ground that the opinion was rendered by the learned Tribunal on 30.11.2018 and it has taken a lot of effort for the last 6 years for the District Administration and the Border Police to apprehend the applicant. Accordingly, it is submitted that in the event the applicant is released on bail, there is every likelihood of absconding.

6. Be that as it may, as the applicant has spent more than 3 (three) months in custody, this Court is of the considered opinion that the applicant may be released on the following conditions:-

i) The family members of the applicant shall appear before the Superintendent of Police (Border), Barpeta and furnish bail bond of Rs.5,000/- (Rupees five thousand only) with 2 (two) solvent sureties of like amount to the satisfaction of the said authority.

ii) Before releasing the applicant on bail, the Superintendent of Police (Border), Barpeta shall obtain the biometrics of the iris of both eyes, the fingerprints of both hands and the photographs of the petitioner.

iii) The said authority shall also obtain necessary information and documentation as required under the Rules from the applicant for securing his presence.

7. Thereafter, steps shall be taken by the Superintendent of Police (Border), Barpeta, to have the applicant released from the detention centre within 3 (three) working days from the date of receipt of certified copy of this order.

8. As a further condition of bail, the applicant is directed not to leave the territorial jurisdiction of Superintendent of Police (Border), Barpeta, without prior written intimation to the said authority, failing which, it would be open to the Superintendent of Police (Border), Barpeta, to move this Court for cancellation of bail.

9. Accordingly, this interlocutory application stands allowed and disposed of.

JUDGE

JUDGE

Comparing Assistant