

GAHC010205792024



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

Case No. : AB/2706/2024

MD ISMAIL HUSSAIN @ ISMAIL HUSSAIN @ ISMAIL ALI
S/O LATE KABAJUDDIN @ KABIJUDDIN @ KABAJUDDIN BEPARI
R/O VILL- NO. 2 BARUAH PATHAR
P.S. BOKO, DIST. KAMRUP, ASSAM

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR S HOQUE,

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 05.11.2024

Heard Mr. S. Hoque, learned counsel for the petitioner. Also heard Mr. D. Das, learned Additional Public Prosecutor for the State.

2. By this petition filed under Section 482 of the Bharatiya Nagarik

Suraksha Sanhita, 2023, the petitioner, namely, **Md. Ismail Hussain @ Ismail Hussain @ Ismail Ali**, has prayed for granting pre-arrest bail, apprehending arrest in connection with Boko P.S. Case No. 223/2024 under Section 14A(b) of Foreigner's Act, 1946 r/w Section 3 of Passport Act, 1920 r/w Section 6 of Passport Rules, 1950 and r/w Section 12 of Passport Act, 1967.

3. It is submitted by the learned counsel for the petitioner that the petitioner was declared foreigner by the Tribunal. It is also submitted that the petitioner was granted bail earlier by this Court vide order dated 18.12.2023 and asked him to appear before the Superintendent of Police (Border), Kamrup at Amingaon but the petitioner has failed to appear. Subsequently, the prayer for appearance was extended by this Court vide order dated 17.07.2024 and accordingly, he has appeared before the SP(B), Kamrup, Amingaon and bail was granted to him. It is further submitted that as the appeal is pending before this Court, the benefit of pre-arrest bail may be extended to the petitioner.

4. On the other hand, Mr. Das, learned Additional Public Prosecutor has produced the case diary and submits that when the petitioner was declared foreigner by the Tribunal, he was absconding for which the instant case was registered as he was not available in his house or detention camp. However, the petitioner may be allowed to appear before the I/O along with relevant document(s) for verification.

5. I have considered the submissions made by the learned counsel for the parties. I have also perused the case diary.

6. As it appears that earlier bail was granted by this Court to the petitioner and subsequently extended, accordingly, it is provided that in the event of arrest of the petitioner, named above, in connection with Boko P.S. Case No. 223/2024 under Section 14A(b) of Foreigner's Act, 1946 r/w Section 3 of Passport Act, 1920 r/w Section 6 of Passport Rules, 1950 and r/w Section 12 of Passport Act, 1967, he shall be released on furnishing bail bond of **Rs.30,000/-** with **two suitable sureties** of the like amount, to the satisfaction of the arresting authority.

7. The direction for pre-arrest bail is subject to the condition that the petitioner:

(a) shall appear before the Investigating Police Officer within ten days from today along with relevant documents and shall keep in touch with the authority as and when required.

8. The anticipatory bail application stands disposed of.

9. Send back the case diary.

JUDGE

Comparing Assistant