

GAHC010207912024



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

Case No. : I.A.(Civil)/3230/2024

HANIF ALI
S/O- MUBARAK ALI @ MOGRAB ALI @ MAKBAR ALI, R/O- VILLAGE-
RAIPUR, P.S. BARPETA ROAD, DISTRICT- BARPETA, ASSAM, PIN- 781313

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE MINISTRY OF HOME
AFFAIRS, GOVERNMENT OF INDIA, SASTRI BHAWAN, NEW DELHI, PIN-
110001

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

3:THE SUPERINTENDENT OF POLICE (B)
BARPETA
P.O. BARPETA
DISTRICT- BARPETA
ASSAM
PIN- 781301

4:THE DEPUTY COMMISSIONER
BARPETA
P.O. BARPETA
DISTRICT- BARPETA
ASSAM
PIN- 781301

5:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI
INDIA
PIN- 110001

6:THE NATIONAL REGISTER OF CITIZEN
REPRESENTED BY THE STATE COORDINATOR
ASHYUT PLAZA
BHANGAGARH
KAMRUP (M)
ASSAM
PIN- 78100

Advocate for the Petitioner : MR. M A SHEIKH, MS F INTAZ

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

Linked Case : WP(C)/5355/2024

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ASSAM
PIN- 781006

Advocate for : MR. M A SHEIKH
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 5 ORS

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

20.11.2024

(K.R. Surana, J)

Heard Mr. M. A. Sheikh, learned counsel for the applicant. Also heard Mr. G. Sharma, learned Standing Counsel for the Home Department and FT matters representing respondent nos. 2 and 3; Mr. H. Kuli, learned counsel on behalf of Mr. A. I. Ali, learned Standing Counsel representing respondent no.5; and Mr. P. Sarmah, learned Senior Govt. Advocate representing respondent no.4. There is no representation from respondent nos. 1 and 6.

2. By filing this interlocutory application in connection with the connected W.P (C) 5355/2024, the applicant is seeking for release/bail from the Transit Camp at Matia, Goalpara, where he was apprehended and taken into custody since 02.09.2024 pursuant to opinion dated 18.11.2024, passed by the learned Member, Foreigners' Tribunal No. 8th, Barpeta, in F.T Case No. 178/2018 (arising out of IM(D)T Case No.967/B/98).

3. The learned Standing Counsel for the Home Department and FT matters has opposed the prayer for bail on the ground that it took a long time for the police and administration to track down and apprehend the applicant, who could not be traced after 18.11.2021. He has also submitted that the applicant may abscond as soon as he will be granted bail.

4. The learned counsel for the applicant has referred the statement made in paragraph 27 of the connected writ petition and it is submitted that the

applicant is a daily wage labourer and due to financial constraints, the opinion dated 18.11.2021, could not be challenged early in point of time.

5. Be that as it may, the Court is inclined to grant bail to the petitioner on following conditions:

a) The family members of the applicant shall deposit a cost of Rs.2000/- (Rupees two thousand only) before the Gauhati High Court Legal Aid Committee, within 4 (four) days from the date of the order.

b) Thereafter, along with the acknowledgment of the receipt of the said cost, the family members of the applicant shall appear before the Superintendent of Police (Border), Barpeta, along with the certified copy of this order and furnish a bail bond of Rs.5000/- (Rupees five thousand only) with one solvent surety of the like amount to the satisfaction of the said authority.

c) On furnishing of the bail bond, 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 and usual undertaking to appear before the Tribunal.

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

e) Within 3 (three) days from the receipt of a certified copy of this order as well as furnishing of the bail bond, the Superintendent of Police (Border), Barpeta shall take appropriate steps for having the applicant

released from the Transit Camp at Matia, Goalpara, and at that time the bail bond of the applicant shall be taken.

6. On release of applicant on bail, he is prohibited from leaving the territorial jurisdiction of the Superintendent of Police (Border), Barpeta, without prior written intimation to the said authority.
7. Accordingly, this interlocutory application is allowed and disposed of.

JUDGE

JUDGE

Comparing Assistant