

GAHC010228342024



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

Case No. : I.A.(Civil)/3330/2024

RAIJAN BEGUM
W/O- DILBAR HUSSAIN, R/O- VILL.- KALJHAR, P.O. BORBALA, P.S. HOWLY,
DIST. BARPETA, ASSAM, PIN- 781316.

VERSUS

THE UNION OF INDIA AND 5 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY
OF HOME AFFAIRS, NEW DELHI-110001.

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-781006.

3:THE DEPUTY COMMISSIONER
BARPETA
DIST. BARPETA
ASSAM
PIN- 781301.

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

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI-110001.

6:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
ASSAM
PIN- 781007

Advocate for the Petitioner : MR A A DEWAN,

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

Linked Case : WP(C)/1151/2023

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7:SECRETARY

P AND RD DEPARTMENT

Advocate for : MR A A DEWAN

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 KARDAK ETE

ORDER

13.11.2024

(K.R. Surana, J)

Heard Mr. A. A. Dewan, learned counsel for the applicant. Also heard Mr. S. S. Roy, learned CGC representing respondent no. 1; Ms. A. Verma, learned Standing Counsel for the Home Department representing respondent nos. 2 and 4; Mr. R. Talukdar, learned Govt. Advocate representing respondent no.3; and Mr. T. Pegu, learned counsel appearing on behalf of Mr. A. I. Ali, Standing Counsel representing respondent no.5. There is no representation from respondent no.6.

2. Pursuant to opinion dated 04.10.2017, passed by the learned member, Foreigners Tribunal, Barpeta 10th, Bajali in F.T. Case No. 84/2015, the petitioner was taken into custody on 02.09.2024.

3. In this interlocutory application, it is projected that by an order dated 15.12.2023, passed by this Court in the connected W.P.(C)/1151/2023, this Court had granted conditional bail to the petitioner by directing the petitioner to appear before the Superintendent of Police (Border), Bajali on or before 30.12.2023 during office hours and furnish a bail bond of Rs.5000/- (Rupees five thousand only) on conditions as stated therein. Moreover, it was also provided that in the event of failure on part of the petitioner to comply with the directions, the bail granted to the petitioner shall stand automatically vacated and she shall be liable to be taken back into custody.

4. It is not in dispute that the petitioner had defaulted in appearing before the Superintendent of Police (Border), Bajali to take bail. Therefore there was no impediment for the authorities to arrest the petitioner and to send her to detention camp at Matia, Goalpara.

5. By filling this interlocutory application, the petitioner is seeking release from the detention camp.

6. Pursuant to order dated 06.11.2024, the applicant's son namely Raizuddin has filed an additional affidavit, thereby undertaking that he is taking full responsibility to communicate the orders of the Court to the petitioner for future compliance and he has provided his mobile number i.e. 7364913831, on which he can be communicated.

7. The learned Standing Counsel for the Home Department has opposed

the prayer for bail on the ground that it has taken a lot of effort by the authorities to track and apprehend the petitioner and it is submitted that in the event, the petitioner is granted bail, there is every likelihood that she may abscond.

8. The ground disclosed by the petitioner for not taking bail in terms of order dated 15.12.2023 passed in the connected writ petition is vague and not acceptable. Nonetheless, considering that the petitioner is a lady and projects herself to be 54 years of age and on the consideration that the petitioner was apprehended on 02.09.2024 and is under detention for more than 2 (two) months, the Court is inclined to extend the time granted in order dated 15.12.2023, passed by this Court in connected W.P.(C)/1151/2023 for the petitioner to take bail by providing as follows :

- a) That the family members of the petitioner shall produce a certified copy of this order before the Superintendent of Police (Border), Bajali during office hours of any working day.
- b) On receipt of the certified copy of this order, the Superintendent of Police (Border), Bajali shall do the needful for accepting the bail bond to be submitted by the petitioner in terms of the order dated 15.12.2023, passed by this Court in the connected W.P.(C)/1151/2023, on being satisfied with the bond as well as the surety offered.
- c) That as a condition for bail, the petitioner is directed not to leave the territorial jurisdiction of the Superintendent of Police (Border), Bajali without prior written intimation to the said authority.

9. Before releasing the petitioner on bail, the Superintendent of Police (Border), Bajali shall do the needful in terms of directions contained in the order dated 15.12.2023, passed in the connected W.P.(C)/1151/2023 and only thereafter, allow the petitioner to be released from the detention camp, Matia, Goalpara. The same shall be done within 3 (three) working days from the date of receipt of the certified copy of this order.

10. This application stands allowed and disposed of.

JUDGE

JUDGE

Comparing Assistant