

GAHC010230232024



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

Case : I.A.(Civil)/3447/2024

MALAM MIAH
S/O- MOTALEB @ A MOTALEB @ A MOTALEB ALI
VILL- TARABARI
PS- TARABARI
DISTRICT- BARPETA
(ASSAM)

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF HOME AFFAIRS
NEW DELHI- 110001

2:THE STATE OF ASSAM
TO BE REPRESENTED BY COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-06

3:ADDITIONAL DIRECTOR GENERAL OF POLICE
ASSAM (BORDER)
RUPNAGAR
BHANGAGARH
GUWAHATI-05

4:ELECTION COMMISSION OF INDIA
REP. BY SECRETARY
NIRVASAN SADAN
NEW DELHI-1

5:NATIONAL REGISTRAR OF CITIZENS-NRC
STATE CO-ORDINATOR
ACHYUT PLAZA
BHANGAGARH
GUWAHATI-5
ASSAM

6:DEPUTY COMMISSIONER
BARPETA
ASSAM
PIN- 781301

7:SUPERINTENDENT OF POLICE (BORDER)
BARPETA
ASSAM
PIN- 781301

Advocate for : MR M AHMED
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 6 ORS

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 14.11.2024
(K.R. Surana, J)

Heard Mr. A.S. Tapader, learned for the applicant. Also heard Ms. B. Sarma, learned CGC for the respondent nos.1; Mr. J. Payeng, learned standing counsel for the respondent nos.2, 3 and 7; Ms. P. Barua, learned standing counsel for the ECI, respondent no.4; and Mr. P. Sarma, learned Additional Senior Govt. Advocate for respondent no.6. There is no representation for respondent no.5.

2. By filing this interlocutory application, the applicant is seeking release/bail from the detention camp at Matia, Goalpara, where he is detained since 02.09.2024 pursuant to *ex parte* opinion dated 22.09.2023, passed by the

learned Member, Foreigner's Tribunal-7, Barpeta in F.T. Case No. 16/2018.

3. The prayer for bail is opposed by the learned standing counsel for the Home Department on the ground that it has taken a lot of effort for the Superintendent of Police (Border), Barpeta to apprehend the applicant. It is submitted that the applicant has not contested the proceedings despite the notice and could not be traced out for about a year after *ex parte* opinion was passed.

4. Considering that the applicant has been taken into custody since 02.09.2024 and has suffered detention for about 2 (two) months, the Court is of the considered opinion that the applicant, namely, Malam Miah be released on bail subject to compliance of the following conditions:

- a. 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.
- b. Before the 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.
- c. The said authority shall also obtain necessary information and documentation as required under the Rules from the applicant for securing his presence.

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

6. 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.

7. This interlocutory application stands allowed.

JUDGE

JUDGE

Comparing Assistant