

GAHC010230262024



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

Case No. : I.A.(Civil)/3511/2024

SUKUR MIAH
S/O- MOTALEB @ A MOTALIB @ A MOTALIB ALI
VILLAGE- TARABARI CHAR
P.S- TARABARI
DIST- BARPETA
ASSAM

VERSUS

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

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

3:THE ADDL. DIRECTOR GENERAL OF POLICE
ASSAM (BORDER)
RUPNAGAR
BHANGAGARH
GUWAHATI-05

4:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI-110001

5:NATIONAL REGISTER OF CITIZENS
THE STATE COORDINATOR

ASSAM
ACHYUT PLAZA
BHANGAGARH
GUWAHATI-05
DIST- KAMRUP (M)

6:THE DEPUTY COMMISSIONER
BARPETA
ASSAM
PIN-781301

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

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

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 18.12.2024
(K.R. Surana, J)

Heard Mr. A.S. Tapadar, learned counsel for the petitioner. Also heard Mr. J. Payeng, learned standing counsel for FT matters, representing respondent nos. 2, 3 and 5, Ms. P. Baruah, learned standing counsel for respondent no.4 and Mr. H.K. Hazarika, learned Govt. advocate appearing for respondent no.6.

2. Pursuant to order dated 18.11.2024 passed in the connected writ petition, the records the Tribunal is received. The examination of said records would take some time.

3. The learned counsel for the petitioner has prayed for bail by submitted that pursuant to opinion dated 27.08.2019 passed by the learned Member, Foreigners' Tribunal No.7, Barpeta in FT Case No. 18/2018, the petitioner has been taken into custody on 02.09.2024 and has spent about 104 days in custody and is presently lodged in detention camp at Matia, Goalpara.

4. Prayer for bail is opposed by the learned standing counsel for the FT matters on the ground that the notice is duly served to the petitioner, but petitioner did not appear in the proceedings and therefore, allowed ex-parte opinion to come on record. It is submitted that after a lot of effort by the Boarder police and another police agencies, the petitioner could be apprehended. It is submitted that if the petitioner is granted bail, the petitioner would abscond.

5. Considering that the applicant has been taken into custody since 02.09.2024 and has suffered detention for more than 3 (three) months and moreover, considering that the examination of records would take some time, the Court is of the considered opinion that the applicant, namely, Sukur 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.

6. 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.

7. 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.

8. This I.A. stands allowed and disposed of.

JUDGE

JUDGE

Comparing Assistant