

(2021) 06 GAU CK 0045

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 2340 Of 2020

Ibrahim Ali

APPELLANT

Vs

Union Of India And 6 Ors

RESPONDENT

Date of Decision : 09-06-2021

Acts Referred:

Citation : (2021) 06 GAU CK 0045

Hon'ble Judges : Sudhanshu Dhulia, CJ; Achintya Malla Bujor Barua, J

Bench : Division Bench

Advocate : K M Hassan

Judgement

Sudhanshu Dhulia, CJ

The matter is taken up through video conferencing.

Heard Ms. S Nazneen, learned counsel for the petitioner. Mr. J. Payeng, learned Standing Counsel, Foreigners Tribunal, Mr. A. Bhuyan, learned

Standing Counsel, Election Commission of India, Ms. L Devi, learned Standing Counsel, NRC and Ms. A Gayan, learned Central Govt. Counsel are

present.

The matter relates to Foreigners Tribunal.

The petitioner has challenged the order dated 13.08.2019 passed by the Foreigners Tribunal No.4th, Morigaon in F.T. (C) Case No.236/2016 by which

the petitioner was declared as a foreigner. Presently the petitioner is in Tezpur Detention Centre since the date of his arrest, i.e. 24.10.2019.

This matter has to be decided on its merits. All the same, presently the petitioner has also made an interim prayer for his release in terms of the

directions given by the Hon'ble Apex Court in the order dated 13.04.2020 in Suo Motu Writ Petition (Civil) No.1/2020 (In Re: Contagion of Covid

19 virus in prisons), which had been followed by a Division Bench of this Court in WP(C) (Suo Moto) No.1/2020 (Gauhati High Court -Vs- Union of

India & Ors.) in its order dated 15.04.2020. In terms of the aforesaid order of the Apex Court, a detainee who has already remained in detention for

more than two years, is liable to be released on his furnishing personal bond and surety. This order has been continuously followed by this Court.

Although the petitioner technically has not completed two years as of now, but would be short of two years by around 4 months, yet considering the

unusual, strange and difficult situation of COVID-19 pandemic which is in its second wave and also on consideration of the fact that the jails and the

detention centres are to be decongested under the present circumstances, we are inclined to pass an order of release in favour of the petitioner, as has

been done in other cases as well.

Mr. J Payeng, learned Standing Counsel, Foreigners Tribunal, has very fairly submitted that due to the present circumstances, he would have no

objections if the petitioner is released from jail.

Consequently, we direct that the present petitioner be released on his furnishing personal bond of Rs.5000/- and one surety of like amount.

The other conditions which are already there in the order dated 15.04.2020 passed in WP(C) (Suo Moto) No.1/2020 will apply in the present case as

well.

List after three months.