



GAHC010122372025



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

Case No. : W.P.(CrI.)/22/2025

MOZIDA BEGUM
W/O LT ANOWAR HUSSAIN D/O LT KOKSED ALI R/O VILL MILAN NAGAR
SANTIPUR PO BALADMARI PS AND DIST GOALPARA, ASSAM

VERSUS

THE UNION OF INDIA AND 5 OTHERS
REP BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT OF
INDIA, NEW DELHI 01

2:THE STATE OF ASSAM
REP BY THE COMMISSIONER AND SECRETARY TO THE DEPTT OF HOME
AFFAIRS GOVT OF ASSAM DISPUR GUWAHATI 6

3:THE SUPERINTENDENT OF POLICE (BORDER)
PO AND DIST GOALPARA ASSAM PIN 783101

4:THE DISTRICT COMMISSIONER
GOALPARA
PO AND DIST GOALPARA ASSAM PIN 783101

5:THE DISTRICT COMMISSIONER
KAMRUP METRO
PO HENGRABARI AND DIST KAMRUP M ASSAM PIN 781036

6:THE DEPUTY COMMISSIONER OF POLICE BORDER
KAMRUP METRO
PO ULUBARI DIST KAMRUP M ASSAM PIN 78100

Advocate for the Petitioner : MR. A R SIKDAR, MR. S I TALUKDAR,MS M SARMA,J A SIKDAR



Advocate for the Respondent : DY.S.G.I., GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 16.06.2025
(K.R. Surana, J)

Heard Mr. A.R. Sikdar, learned counsel for the petitioner. Also heard Mr. M.R. Adhikari, learned CGC; Mr. G. Sarma, learned standing counsel for the NRC; Mr. H. Kuli, learned counsel appearing on behalf of Mr. A.I. Ali, learned standing counsel for the ECI; and Mr. P. Sarmah, learned Additional Senior Govt. Advocate for the State respondent.

2. The case of the petitioner is that by an opinion dated 17.12.2018, passed by the learned Member, Foreigners Tribunal, Kamrup (M) 2nd, Guwahati in F.T. Case No. 600/2017, the son of the petitioner, namely, Hasinur @ Hachinur was declared to be a foreigner of post 25.03.1971 stream. The said opinion was assailed by the son of the petitioner by filing WP(C) 2546/2020. As per the status of the said case, available in the Court website, the said writ petition is found to be pending for disposal.

3. It is submitted that by an order dated 07.06.2021, passed by the Division Bench of this Court in WP(C) 2546/2020, owing to the Covid situation and in terms of directions given by the Supreme Court of India, by order dated 13.04.2020 in *Suo Motu* WP(C) No. 1/2020 – *In Re: Contagion of Covid 19 Virus in Prisons*, followed by order date 15.04.2020, passed by the Division Bench of this Court in WP(C) (Suo Motu) 1/2020 – *Gauhati High Court v. Union of India &*



Ors., on the ground that the son of the petitioner had completed more than 2 (two) years of detention, he was granted bail by order dated 07.06.2021, passed by the Division Bench of this Court in WP(C) 2546/2020, on conditions as contained in the order dated 15.04.2020, passed in WP(C) (Suo Motu) 1/2020.

4. It is submitted that the requirement of the said order was to attend the jurisdictional police station and accordingly, by referring to Annexure-4 to the writ petition, it has been projected that ever since 06.06.2021, the petitioner has been attending the Goalpara Police Station and his attendance has been recorded by the Officer-in-Charge and/or other Constable on duty of the Goalpara Police Station. The previous three appearances of the son of the petitioner before the Goalpara Police Station were on 05.05.2025, 12.05.2025, and 19.05.2025 respectively.

5. It is projected in this writ petition that on 25.05.2025, at about 11.00 AM, the Border Police under the Superintendent of Police, Goalpara, took the son of the petitioner into custody and thereafter, he was shifted to the Transit Camp at Matia, Goalpara. Having not found the son of the petitioner at the Goalpara Sadar Police Reserve or in the Transit Camp at Matia, Goalpara, the present writ petition has been filed under Article 226 of the Constitution of India, whereby the petitioner has prayed for production of the petitioner's son before the Court forthwith; to release the petitioner's son and restraining the respondent authorities from deporting the son of the petitioner to the specified territory.

6. As per order dated 06.06.2025, the Court was informed that the son of the petitioner was lodged in the Kokrajhar Holding Centre. Accordingly, this Court had permitted the petitioner to meet her son, who was stated to have



been lodged at the Kokrajhar Holding Centre at C/o 7th Assam Police Battalion, Charaikhola in the district of Kokrajhar.

7. On behalf of Mr. J. Payeng, learned standing counsel for the FT matters, Mr. G. Sarma, learned standing counsel for the NRC has prayed for adjournment of the matter to enable the learned standing counsel to produce instruction, if any, received by now and also prayed for adjournment so that the matter can be taken up on 17.06.2025 so that the instruction of the State can be produced.

8. Considered the said submissions.

9. In course of this order being dictated, Mr. J. Payeng, learned standing counsel for the FT matters has appeared and has submitted that he has to receive instruction from the Home & Political (B), Department, Govt. of Assam. Accordingly, he prayed for some time.

10. By order dated 11.06.2025, this Court had directed the Officer-in-Charge of the Goalpara Police Station to verify the correctness of Annexure-4 to the writ petition and to inform the learned standing counsel for the FT matters about it. Accordingly, the matter was fixed today.

11. Having noted that this Court, by order dated 07.06.2021, had granted bail to the son of the petitioner, namely, Hasinur @ Hachinur and on a *prima facie* perusal of Annexure-4 to the writ petition, the son of the petitioner is found to have been regularly attending the Goalpara Police Station.

12. Accordingly, when the petitioner was on bail by order dated 07.06.2021, passed by the Division Bench of this Court in WP(C) 2546/2020, the



subsequent detention of the son of the petitioner is found to be *ex facie* illegal detention.

13. Under such circumstances, it becomes the duty of the Court to protect the fundamental right of the detained person under Article 21 of the Constitution of India. The arrest of a person, who is enlarged on bail amounts to overreach of the orders passed by this Court and therefore, such an illegal detention cannot be allowed even for a minute.

14. Under such circumstances, the prayer for adjournment is refused.

15. The Home & Political (B) Department, Govt. of Assam ought to have been well advised to provide timely instruction to the learned standing counsel for the FT matters in terms of the order dated 11.06.2025, which has not been done.

16. Accordingly, let a writ in the nature habeas corpus be issued, commanding the In-Charge of Kokrajhar Holding Centre at C/o 7th Assam Police Battalion, Charaikhola in the district of Kokrajhar to forthwith release the detainee, namely, Hasinur @ Hachinur, son of Late Anowar Hussain and the petitioner, namely, Mozida Begum, on production of certified copy of this order.

17. Accordingly, the Superintendent of Police (Border), Goalpara is also directed to ensure that the order of the Court to release Hasinur @ Hachinur, the son of the petitioner is duly complied with.

18. It is further provided that in the event the State has any compelling reason to keep the son of the petitioner in detention and/or if the detention of the said detinue has been necessitated for non-compliance of conditions on



which he was released on bail, the competent authorities should be well advised how to take appropriate steps in light of order dated 07.06.2021, passed in WP(C) 2546/2020.

19. In order to ensure that the order of the Court is complied with, the matter is kept pending.

20. On the next date of listing, the Home & Political (B) Department, Govt. of Assam shall inform the Court through their learned standing counsel as to whether the order of the Court passed today has been complied with.

21. List on 20.06.2025.

JUDGE

JUDGE

Comparing Assistant