

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(CRL) 5 OF 2015

Mr. Future Baresy otuoma sirichi @ Future Baresy
 S/o. Otuoma Sirichi,
 Resident of No.13,
 Old Express Road, ABA
 (Nigeria) Dist. ABA, State-ABA, Nigeria
 (In custody since 05-09-2014, lodged in
 Sub-Jail, Sonamura).

.... **Petitioner.**

- Vrs -

The State of Tripura,

.... **Respondent.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE S.C. DAS

For the Petitioner : **Mr. P. Rathor, Advocate.**

For the respondent : **Mr. R.C. Debnath, Addl. P.P.**

Date of hearing & : **31.03.2015.**
Delivery of judgment
and order.

Whether fit for : **NO**
Reporting

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, C.J.)

This petition under Article 227 of the Constitution of India is directed against the judgment dated 03.03.2015 delivered by the learned S.D.J.M., Sonamura, West Tripura, wherein she has sentenced the petitioner to undergo 7(seven) months simple imprisonment and to pay a fine of ₹1000/- only and in default of payment of fine to suffer further simple imprisonment for a period of another 1(one) month.

2. The petitioner Future Barsey Otuomasirichi @ Future Barsey is a Nigerian national. He holds a valid Nigerian Passport. However, his Visa to visit India has expired. The petitioner was apprehended by the police on 05.09.2014 in the State of Tripura at Sonamura. The allegation of the prosecution was that he was trying to cross over to Bangladesh. Since the petitioner did not have valid Visa, he was arrested and charged with having committed an offence under Section 14 of the Foreigners Act,1946.

3. The petitioner pleaded guilty before the trial Court and he has been sentenced to undergo 7(seven) months imprisonment and to pay a fine of ₹1000/- only and in default of payment of fine to suffer further simple imprisonment for a period of another 1(one) month. The petitioner has already been behind Bar since 05.09.2014 which means that the 7(seven) months will be coming to an end on 5th April, 2015. Mr. Rathor has urged that the petitioner has already been suffered enough and the sentence which has already been undergone by him is sufficient.

4. We may at this stage notice that the petitioner has not been charged with any other offences. The only charge against him is that he was without a valid Visa. We also may note that the petitioner has married an Indian national Ms. Ilika Hekiye who belongs to Nagaland and two children have been born out of their wedlock.

5. Keeping in view the above facts and circumstances, we allow the petition and modify the order passed by the learned trial Court and reduce the period of punishment to the period already

undergone by him. He, therefore, shall be ordered to be released forthwith.

6. We further direct that the learned counsel of the petitioner shall be given a copy of the order and on the basis of this order, the petitioner shall be permitted to travel to Delhi and there he shall contact with his Embassy and further action shall be taken in accordance with law.

7. The permission to travel on the basis of this order is valid only upto 15th April, 2015.

8. We have passed this order since the petitioner will have to arrange funds for the travel of himself and his wife to Delhi. We make it clear that the petitioner will not travel anywhere else except from Tripura to Delhi and if he does not get any extension of Visa by 15th April, 2015 then he must go back to his country by the said date.

9. The police is directed to return all the belongings of the petitioner forthwith.

10. The writ petition stands disposed of.

JUDGE

CHIEF JUSTICE