

Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 10 of 2023

Smti. Mibeldalin Nongkhlaw Vs. Date of Decision: 17.05.2023
State of Meghalaya & 2 Ors.

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Deb, Adv.
For the Respondent(s) : Mr. H. Kharmih, Addl. PP. for R 1.
None for R 2 & 3.

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

JUDGMENT AND ORDER (ORAL)

1. Heard Mr. S. Deb, learned counsel appearing on behalf of the applicant as well as Mr. H. Kharmih, learned Addl. PP appearing on behalf of the State respondent.

2. The applicant herein has preferred an application under Section 439 Cr.P.C., with a prayer for grant of bail on behalf of her son, Shri. Moonshine Nongkhlaw, who is an accused herein in connection with Spl. (POCSO) Case No. 7 of 2021 pending before the Court of the learned Special Judge (POCSO) at Nongpoh.

3. Bereft of unnecessary details, the learned counsel for the applicant would submit that the accused person was arrested in connection with the offences charged against him under the relevant provisions of the POCSO Act, for which he has been remanded to judicial custody and is still in custody till date from the date of his initial arrest in the month of February, 2021.

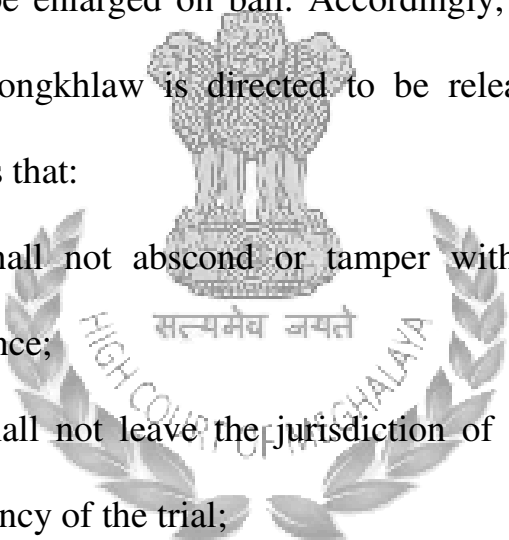
4. It is fairly submitted that as on date, the trial has proceeded with the evidence of all the relevant witnesses, including the alleged survivor being duly recorded. At this point of time, in the facts and circumstances of the case, the learned counsel has submitted that the accused person may be enlarged on bail with any conditions to be imposed by this Court as deemed fit and proper.

5. The learned Addl. PP has also fairly submitted that since the deposition of the main witnesses have been recorded, there is no strong objection to the release of the said accused person on bail, albeit, under strict conditions, to which failure to adhere to the same, would invite cancellation of the bail.

6. This Court is aware of the fact that the case against the accused person is one under the POSCO Act, which on the face of it are very serious charges. However, because of the nature of the offence and the person involved, particularly the survivor, that the lawmakers have deemed

it proper to insert a provision as regard the trial of such case, the same being found under Section 35, wherein the Trial Court is directed to conclude the trial under the POCSO Act, preferably within a period of one year. The case in hand has travelled more than one year and there is no indication that the proceedings would be concluded within the next one or two months.

7. Be that as it may, at this stage, this Court is inclined to allow the accused person to be enlarged on bail. Accordingly, the accused person, Shri. Moonshine Nongkhlaw is directed to be released on bail on the following conditions that:

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- i) He shall not abscond or tamper with the witnesses and evidence;
 - ii) He shall not leave the jurisdiction of the State during the pendency of the trial;
 - iv) He shall cooperate with the trial and to attend Court as and when the date is fixed for the trial;
 - v) He shall not have any physical contact or otherwise with the alleged survivor during the pendency of the case and
 - vi) He is to furnish a personal bond of ₹ 20,000/- (Rupees twenty thousand) only with two sureties of like amount to the satisfaction of the Trial Court.

8. In view of the above, this application is accordingly disposed of.

No costs.

Judge

Meghalaya
17.05.2023
"D. Nary, PS"

