

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 13 of 2023

Shri. Borson Nongbri	Vs.	Date of Decision: 21.06.2023 State of Meghalaya & Anr.
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Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)	:	Ms. N. Mawlong, Adv. Ms. E. Bareh, Adv.
For the Respondent(s)	:	Mr. H. Kharmih, Addl. PP. Mr. S. Sengupta, Addl. PP. Mr. K.P. Bhattacharjee, GA. for R 1. None for R 2.

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

JUDGMENT (ORAL)

1. Heard Ms. N. Mawlong, learned counsel for the petitioner as well as Mr. H. Kharmih, learned Addl. PP for the State respondent No. 1.
2. At the outset, the learned counsel for the petitioner has submitted that the service report on the notice issued upon the respondent No. 2 is complete and affidavit of service has been duly affected. However, the respondent No. 2 has failed to appear before this Court today.

3. The case involved the arrest of the petitioner in connection with Mawkyrwat Women P.S. Case No. 08 (05) 2022 under Section 3 (a)/4 of the POCSO Act read with Section 307 IPC.

4. The case has reached a stage where cognizance was taken by the Court of the learned Special Judge (POCSO), South West Khasi Hills, Mawkyrwat and accordingly, Special (POCSO) Case No. 15 of 2022 under Section 3/4 of POCSO Act, 2012 read with Section 341/34 IPC was duly registered.

5. It is submitted at the bar that till date, though the case is at the evidence stage, no witnesses have been examined so far.

6. The learned counsel for the petitioner has referred to the order passed by this Court in BA. No. 29 of 2022, whereby vide order dated 31.01.2023 involving the same accused person herein, the Court has at that relevant point of time rejected the prayer for grant of bail, but has however observed that in the event the case has not proceeded for recording of evidence, the petitioner/accused is at liberty to approach this Court for necessary orders as far as the prayer for grant of bail is concerned.

7. This being the case, the learned counsel has submitted that since evidence has not yet been recorded and the case may take a long time to be finally disposed of, therefore, the accused/petitioner has now approach this Court with a prayer for grant of bail.

8. Since the submission made by the learned counsel as far as the proceedings before the Trial Court is concerned has not been contradicted by the prosecution, therefore, this Court, in deference to its own order dated 31.01.2023 is inclined to allow the prayer of the petitioner. Accordingly, the petitioner/accused, Shri. Borson Nongbri is hereby directed to be enlarged on bail on the following conditions that:

- i) He shall not abscond or tamper with the evidence and witnesses;
- ii) He shall not threatened or come into contact with the alleged victim till disposal of the case before the Trial Court;
- iii) He shall appear before the Court as and when required;
- iv) He shall not leave the jurisdiction of Meghalaya without prior permission of the Court concerned and
- v) He shall bind himself to a personal bond of ₹ 50,000/- (Rupees fifty thousand) only with two sureties of like amount.

9. In view thereof, bail application is accordingly disposed of. No costs.

Judge

Meghalaya
21.06.2023
"D. Nary, PS"