



Serial No. 02
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 22 of 2024

Date of Decision: 09.07.2024

Smti. Trir Sanglyne,
W/o (L) Mandar Syiemlieh,
R/o Dommawlieh Village,
P.S. Ranikor,
South West Khasi Hills District,
Meghalaya

::::: **Applicant**

-Vs-

1. State of Meghalaya
Through the Superintendent of Police
East Khasi Hills District, Meghalaya.
2. Miss X (survivor/victim)
D/o Shri. Emmanuel Syiemlieh,
R/o Umkdait Nongmynsong, Shillong
East Khasi Hills District, Meghalaya.
3. Smti. Anjelin Nongsiej (Complainant)
Sister of Miss X (survivor)
R/o Nongmynsong, Umkdait
East Khasi Hills District, Meghalaya.

::::: **Respondents**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. K.V. Kharlyngdoh, Adv. with
Mr. L. Syiem, Adv.



For the Respondent(s) : Mr. R. Gurung, GA. for R 1.
Mr. A. Sharma, Adv. 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 learned counsel for the respective parties.
2. Mr. K.V. Kharlyngdoh, learned counsel for the applicant has impressed upon this Court that the accused person in question namely, Shri. Bimostar Sanglyne is in custody for the last one year or so. Apart from the alleged prolonged incarceration as an Under Trial Prisoner, the accused person is also suffering from Human Immunodeficiency Virus (HIV) and relying on the decision of the Hon'ble Supreme Court in the case of Bhawani Singh v. State of Rajasthan & Anr, 2022 SCC OnLine SC 1991, wherein the Apex Court had granted bail to the petitioner therein, who was suffering from HIV, the learned counsel would submit that the same may be made applicable in the case of the accused person herein and that he may be enlarged on bail with any conditions that this Court may deem fit and proper to impose.



3. Mr. R. Gurung, learned GA appearing for the State respondent No. 1 has vehemently opposed the prayer made on the ground that the evidence on record points to the guilt of the accused person in question as well as his conduct, particularly the fact that he is suffering from HIV and had also caused transmission of the same to his wife and the survivor which speaks volume about his conduct, and as such, considering the seriousness of the case, the prayer for bail may not be granted at this stage.

4. The learned GA also submits that the learned Trial Court in one of its previous order taking into account the fact that the accused person in question is suffering from HIV, had urged upon the parties to cooperate in the speedy disposal of the case as a result of which out of five prosecution witnesses, two have already been examined and discharged including the survivor. It is the further submission of the learned GA that the Trial Court may be allowed to complete the trial and that the accused person in question may not be enlarged on bail at this stage.

5. This Court has considered the submission made by the parties, and has also perused the petition as well as the materials on record including the charge sheet. If the contention of the prosecution is to be accepted, it would appear that the case under consideration is very serious



in nature involving a minor survivor, who, apart from being sexually assaulted, was also infected by the dreaded HIV. However, it is also to be considered that the case of the prosecution has to be proved beyond reasonable doubt or in accordance with the related provision of the POCSO Act.

6. Be that as it may, it is a universal truth that a person would be prescribed to be innocent until proven guilty notwithstanding the provision of Section 29 of the POCSO Act where an accused would be allowed to state his defence as far as his innocence is concerned, but that is all in the realm of the proceedings before the Trial Court. As far as the issue of bail is concerned, the reliance of the petitioner in the case of ***Sanjay Chandra v. Central Bureau of Investigation, reported in (2012) 1 SCC 40, para 22*** would be relevant, inasmuch as, it was held as follows:

“22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be



deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.”

7. The stage of investigation having been completed, the accused person in question would not be required for custodial interrogation, and as such, to further keep him in custody, would serve no purpose, if he can demonstrate his bonafide not to abscond or to violate any conditions to be imposed by the Court, if enlarged on bail. It is therefore the considered opinion of this Court that at this point of time, the accused person in question may be enlarged on bail with conditions to be imposed. Needless to say, as pointed out by the learned counsels at the bar, the Trial Court is impressed upon to look into the provision of Section 34 of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 as far as speedy disposal of the case is concerned. Though, the time frame may not be necessary to be prescribed, it would be incumbent upon the Trial Court to exercise its wisdom in this regard. Accordingly, this petition is allowed.

8. The accused person, Shri. Bimostar Sanglyne is hereby directed to be enlarged on bail on the following conditions that:

- i) He shall not abscond or tamper with the remaining



witnesses;

- ii) He shall not leave the jurisdiction of the State of Meghalaya without the permission of the Trial Court;
- iii) He shall cooperate with the trial as and when required;
- iv) He shall bind himself on a personal bond of ₹ 50,000/- (Rupees fifty thousand) only with one surety of like amount to the satisfaction of the Trial Court;
- v) He shall have no contacts whatsoever with the survivor during the pendency of the trial.

9. Any violation of the conditions imposed hereinabove, would allow the prosecution to take necessary steps for cancellation of the bail granted.

10. In view of the above, this petition is accordingly disposed of.
No costs.

Judge