



Serial No. 03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 25 of 2024

Date of Decision: 09.07.2024

Shri. Modify Dkhar,
S/o Shri. Heimonme Lamare,
R/o of Syrpoo Sutnga,
East Jaintia Hills District, Meghalaya

.....Petitioner

-versus-

State of Meghalaya
Represented by the Public Prosecutor

.....Respondent

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Deb, Adv.
Ms. N. Rajee, Adv.

For the Respondent(s) : Mr. K. Khan, P.P with
Mr. S. Sengupta, Addl. P.P
Mr. J.N. Rynjah, GA

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



JUDGEMENT & ORDER (ORAL)

1. An FIR dated 20.04.2024 was lodged at Rynjah Police Station by the complainant who has alleged that sometime in the month of September or October, 2023 she was invited to the residence of a known person and on reaching the place she had noticed there are also other individuals whose identity at that point of time are unknown to her. In due course, during the gathering, the complainant had admitted to have consumed alcohol and had become unconscious. Thereafter, noticing her vulnerable state, the members of the group took advantage of her by sexually assaulting her and has also recorded the sexual act on video. The complaint has also stated that the video recorded on the said day was circulated among individuals which eventually was also brought to her notice. Being a victim of the said act, the incident has severely impacted her mental and social well-being. The authorities are accordingly requested to take action in this regard. Immediately on receipt of the said FIR the police have initially registered the case as Rynjah P.S. Case No. 47(04) of 2024 under Section 376 (g)/509 IPC and investigation was launched.

2. In course of investigation, three persons were arrested including Shri. Modify Dkhar, the petitioner herein. The petitioner having been arrested in connection with such case and being in custody till date has approached this Court with this instant application seeking grant of bail.

3. Heard Mr. S. Deb, learned counsel for the petitioner who has not disputed the alleged incident which had taken place as narrated by the said complainant. However, the stand taken by the petitioner is that even though the alleged incident happened at his residence, he is not involved in the



alleged act of sexual assault nor was he named as one of the perpetrators. Under such circumstances, the learned counsel has submitted that the petitioner may be enlarged on bail with any conditions to be imposed by this Court considering the fact that he is a student who is about 20 years old or so and is now pursuing his studies in Shillong Commerce College, Shillong.

4. Per contra, Mr. K. Khan, learned P.P while opposing to the prayer made by the petitioner in this petition has submitted that the entire episode reflects a very sad state of affair inasmuch as a young woman was left vulnerable to the onslaught or damages inflicted upon her physically as well as mentally. The fact that she was sexually assaulted and on top of that, the fact that such despicable act was made known to the society and public at large via the viral video mode has left her with her honour and reputation in tatters. The act perpetrated upon her would indeed or could indeed be termed as an act against society at large and under such circumstances, it would not be just and proper for the petitioner herein to be enlarged on bail or to be allowed to go out of custody at this point of time.

5. Furthermore, the learned P.P has submitted that the investigation in the case is not yet complete and the I/O may be allowed to complete her investigation.

6. This Court, on consideration of the submission made and on perusal of the petition as well as copy of the case diary would agree that prima facie the case of sexual assault against the survivor has been made out. As to the actual role of all the alleged perpetrators including the petitioner herein the same would be a matter of investigation and evidence. Though the



petitioner would maintain that the incident took place at his residence which is a rented house, he personally never took part in the alleged sexual assault. It would be too early in the day to confirm such statement which is best left to the I/O to come to the conclusion at the end of the investigation. However, the nature, seriousness and the manner in which the alleged offence took place and the indelible impact it had on the survivor would convince this Court that at this stage no leniency should be given to the petitioner herein.

7. Accordingly, this Court finds that this petition is devoid of merit, the same is dismissed.

8. Petition disposed of. No costs.

Judge