



Serial No. 09
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

AB. No. 17 of 2024

Date of Decision: 02.09.2024

Shri. David Rodborn
S/o (L) E. Ropmai
R/o Tangnger Village, Mawsynram,
East Khasi Hills District, Meghalaya

::: Applicant

-Vs-

1. State of Meghalaya
Represented by the
Secretary to the Govt. of Meghalaya
Home (Police) Department
East Khasi Hills District, Meghalaya.

2. Investigating Officer,
Mawsynram Police Station
East Khasi Hills District, Meghalaya.

3. Smti. X (Complainant)
And

4. Miss Y (Victim)
In Mawsynram P.S. Case No. 28 (08)
2024 u/s 3 (a)/4 POCSO Act, 2012
Through the Investigating Officer
Mawsynram Police Station
East Khasi Hills District, Meghalaya.

::: Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

For the Petitioner/Appellant(s) : Mr. K.Ch. Gautam, Adv.

For the Respondent(s) : Mr. N. Syngkon, GA.
Mr. J.N. Rynjah, GA. for R 1 & 2.
None for R 3 & 4.

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

1. Heard Mr. K.Ch. Gautam, learned counsel for the applicant, who has submitted that the notice issued upon the respondent Nos. 3 & 4 have not yet been affected, and as such, it is prayed that some more time may be allowed for such notice to be acknowledged.

2. Mr. N. Syngkon, learned GA appearing on behalf of the State respondent Nos. 1 & 2, on the other hand, has submitted that as directed by this Court, the status report of the investigation as well as the records of the investigation conducted so far is hereby produced before this Court.

3. The learned GA further submits that on perusal of the Investigating Officer's report, it is seen that the statement of the survivor recorded under Section 164 Cr.P.C is very clear and unambiguous, inasmuch as, the survivor has stated, the details of how the incident occurred on



28.07.2024 when the applicant herein had invited her to his house and on reaching his house, he had closed the door and pulled the survivor to the bedroom of his wife and thereafter, he committed the act of sexual assault upon the survivor, and has also threatened her to the extent that, if she reveals the incident to anyone, he will beat her. It was only a few days after the incident, on her parents noticing her forlorn attitude that she finally narrated whatever happened to her, and thereafter, the FIR was filed on 01.08. 2024.

4. The learned GA has also submitted that the medical report issued after the survivor was medically examined by a competent medical officer, would also indicate inter alia, that her hymen was not intact which would only confirmed that the sexual assault upon the minor survivor had actually taken placed.

5. On these two grounds, that is, the statement of the survivor and the medical report, the learned GA submits that the applicant cannot be released on bail or pre-arrest bail, but he has to be made to go through the process of custodial questioning. The fact that he has also threatened the survivor, and that being a neighbor of the survivor, would only strengthen the case of the prosecution that the applicant is not deserving of any leniency by this Court or by any due process of law.



6. Per contra, Mr. K.Ch. Gautam, learned counsel for the applicant has submitted that the FIR filed is on the basis of false information or facts which could not be proved through relevant evidence, the medical report is also not exhaustive and has no proof of any act of sexual assault by the applicant. It is also the submission of the learned counsel for the applicant that the applicant has already cooperated with the Investigating Authorities and has appeared before the Investigating Officer as directed. Therefore, considering the fact that he has no criminal antecedent, this application for grant of pre-arrest bail may be allowed with any strict conditions that may be imposed by this Court.

7. This Court has carefully considered the submission made by the parties and has also perused the application as well as the case diary filed by the Investigating Officer and the latest compliance report filed by the Investigating Officer. The facts as stated in the FIR have been reiterated by the Investigating Officer in course of her investigation. Needless to say, the Court would not go into the merits of this case at this point of time, suffice it to say that for consideration of any bail application, be it regular bail or anticipatory bail, it is incumbent upon this Court to look into the seriousness of the alleged offence and the accompanying facts and circumstances thereto, apart from any compelling circumstances related to the alleged



offence. At this stage, it would be sufficient for this Court to consider the statement of the survivor, who apparently is of a very minor age about 13 years old or so. Prima facie, it would not be expected that a child of such age may have any enmity or even have any idea of conspiracy against the applicant/accused person. The narration of the survivor has to be accepted at face value at this point of time.

8. In view of the observations and findings made herein, the attendance of the respondent Nos. 3 & 4 is no longer required.

9. Considering the fact that this is a case of an alleged crime against a minor, this Court, at this juncture would agree with the submission of the learned GA that the applicant has to go through the process of thorough investigation. Accordingly, this application is hereby dismissed as devoid of merits. The interim protection given is hereby set aside and the Arresting Authorities are directed to take the applicant into custody for necessary interrogation.

10. Matter disposed of. No costs.

Judge