



Serial No. 02
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 73 of 2024

Date of Decision: 17.10.2024

Smti. Patrisha Lare
 W/o (L) Bliding Kharpan
 R/o Kreit Village
 East Khasi Hills District,
 Meghalaya

.....**Petitioner**

-Vs-

1. The State of Meghalaya
 Represented by its Secretary
 Home (Police) Department.
2. Officer-in-charge Women P.S.
 Nongpoh Ri-Bhoi District,
 Meghalaya.

.....**Respondents**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. R. Gurung, Adv.
 For the Respondent(s) : Mr. K. Khan, P.P with
 Mr. S. Sengupta, Addl. P.P
 Mr. S.A. Sheikh, 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 |



ORDER (ORAL)

1. The brief facts of the case is that an FIR dated 07.11.2023 was lodged by the complainant therein wherein it was alleged that on that day at about 6:40 pm while waiting for a taxi on her way home from Lad Umroi to Lad Umsaw, she boarded one tourist cab driven by the son of the petitioner herein. While they were proceeding to the destination, the said driver attempted to rape her which resulted in a struggle wherein she managed to get out of the said vehicle at a place called Palei Kitchen Restaurant whereupon the said driver attempted to run over her left shoulder.
2. The Officer-in-Charge, Umiam Police Station, Ri Bhoi District registered the FIR as Women P.S. Case No. 71(11)23 under Section 341/354/323/365/376(2)/511 IPC and investigation was launched. In course of investigation, the Investigating Officer (IO) had examined all the relevant witnesses and has filed his charge sheet with a finding that a well-established prima facie case is made out against the accused therein and he was directed to stand trial before the court for the offences aforementioned.
3. The case has then come up before the learned Sessions Judge being registered as Sessions Case No. 5 of 2024 with charges under Section 341/354/323/365/376(2)/511 IPC being framed against the accused person. The stage of the trial is for recording of the evidence of the prosecution witnesses, the evidence of the complainant/survivor has been duly recorded by the learned trial court.
4. Mr. R. Gurung, learned counsel has submitted that the



petitioner has approached this Court with this instant application under Section 483 BNSS with a prayer for grant of bail to the accused person Shri. Wanshambor Lare.

5. It is the submission of the learned counsel that the allegations against the accused/son of the petitioner are false and fabricated though the fact that he is a tourist taxi driver and on the said date of the alleged incident he had indeed allowed the complainant to board his cab which she does so by sitting in the front seat instead of the passenger seat. In course of the journey, they got to talk to each other and also exchanged phone numbers. However, due to the constant talking of the complainant/survivor, the driver got distracted and met with an accident which resulted in serious injuries sustained by him for which he had to be admitted at the Civil Hospital, Shillong for a week.

6. The learned counsel has submitted that since investigation is already completed and the case has proceeded for evidence, the accused person had preferred a bail application before the trial court on 10.06.2024 which was rejected. The fact that the accused person is a young man of 19 years old with no criminal records, if enlarged on bail, he will comply with any conditions that this Court may deemed fit and proper to impose.

7. The learned counsel has further submitted that the accused person has been languishing in judicial custody for the last one year and the trial with fifteen witnesses cited by the prosecution and only one of them having been examined, there is every likelihood that the same will be prolonged. In such a circumstance, the accused person is entitled to be enlarged on bail. The case of Smti. Lakyntiewrisha Nongrum & Ors.



v. State of Meghalaya & Anr. was cited wherein this Court vide order dated 16.02.2024 in BA No. 2 of 2024 and related bail applications considering the period of prolonged incarceration of the accused person in custody and the possibility of the trial not concluding within a short span of time had allowed the prayer for bail made therein.

8. Per contra, Mr. K. Khan, learned P.P has submitted that the evidence of the survivor would reveal that in her cross-examination she had clearly indicated that she is scared of the accused person and was badly traumatized by the incident and also that if the accused person is released on bail he may take revenge against her and her family members. Apart from this, the materials on record, particularly the statement of the survivor would show that at the time of the incident the accused person on top of the fact that he tried to rape her, he has also attempted to cause serious injuries to her when he tried to run over her shoulders by the said vehicle. Therefore, this is not a fit case for grant of bail to the accused person, further submits the learned P.P.

9. This Court has gone through the application as well as the annexures thereto including the charge sheet and the deposition of the survivor as PW1. It would not be fitting at this stage to come to any conclusion as to the guilt of the accused person since that would involve appreciation of the whole body of evidence which is still in the process of being recorded.

10. Though the allegations made are serious in nature, considering the fact that preliminary stages of the trial are complete, what is now left is only for the recording of the evidence of the prosecution witnesses in the first place, being fifteen in numbers, it is apparent that the trial will



not be completed within a month or so.

11. The fact that the main witness, that is, the complainant herself, having finally deposed before the court as PW1, it would be proper to assume that there is no possibility of the accused person tampering with the evidence or person of such an important witness.

12. Again, in the case of Lakyntiewrisha Nongrum (supra) this Court has observed at para 14 that the accused person therein has been in custody for quite some time, investigation has been completed and only one out of the nine witnesses has been examined, the possibility of trial being concluded within a short span of time is remote, the same observation may also be applied to the case in hand.

13. Under the circumstances, this Court is inclined to allow the prayer of the petitioner and the accused person in question is hereby directed to be released on bail on the following conditions:-

- i. That he shall not abscond or intimidate the witnesses;
- ii. That he shall appear before the court as and when required;
- iii. That he shall not leave the jurisdiction of the State without prior permission of the court;
- iv. That he shall have no contacts whatsoever with the complainant/survivor, physical or otherwise during the period of trial;



- v. That he shall also refrain from intimidation as far as the family members of the complainant/survivor are concerned; and
- vi. That he shall furnish a personal bond of ₹ 30,000/- (rupees thirty thousand) only with one surety of like amount to the satisfaction of the concerned court.

14. Needless to say, any breach of the abovementioned conditions would allow the prosecution to move the trial court for cancellation of bail.

15. Petition disposed of. No costs.

Judge