

Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

AB. No. 57 of 2023

Date of Order: 02.05.2024

Shri. Kelbinson Sangma,
S/o (L) Letterson D. Momin,
Resident of Kaama Gandim,
P.S & P.O Kharkutta,
North Garo Hills District,
Meghalaya.

::: Petitioner

-Vs-

1. State of Meghalaya
Represented by the Public Prosecutor.
2. Shri. Tengbat Sangma,
(Complainant and Father of the Victim)
R/o Kaama Gandim Village,
P.O & P.S Kharkutta,
North Garo Hills District, Meghalaya
3. Smti. Sanitha Momin,
(Complainant and Mother of the Victim)
W/o Shri. Tengbat Sangma,
R/o Kaama Gandim Village,
P.O & P.S Kharkutta,
North Garo Hills District, Meghalaya.

::: Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

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

For the Respondent(s) : Mr. N.D. Chullai, AAG. with
Mr. J.N. Rynjah, GA. for R 1.
None for R 2 & 3.

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

ORAL:

1. Mr. S. Deb, learned counsel for the petitioner/accused, at the first instance, has led this Court to the order dated 04.04.2024 as regard the appearance of the respondent Nos. 2 & 3 respectively, wherein this Court has observed that the said respondents having received notice, have failed to make their appearance in Court and on their failure to appear on the next date, necessary orders shall be passed. Therefore, he prays that since the respondent Nos. 2 & 3 have failed to appear even today, necessary orders may be passed to proceed ex-parte against them. Accordingly, this matter shall proceed ex-parte against the respondent Nos. 2 & 3.

2. The learned counsel also submits that the petitioner/accused was allowed to go on interim bail vide this Court's order dated 28.12.2023 which relief was extended from time to time till date. In the meantime, the Investigating Officer has filed the charge sheet with a finding that a prima facie case is found well established against the petitioner/accused under

Sections 7 & 8 of the POCSO Act, 2012. The petitioner/accused is directed to stand trial before the competent court of jurisdiction.

3. It is also the submission of the learned counsel that copy of the charge sheet/final report has not yet been received, however, the learned counsel has reiterated that the petitioner/accused may be allowed to go on pre-arrest bail, for which he will ensure that he shall abide by any conditions to be imposed by this Court.

4. Mr. N.D. Chullai, learned AAG appearing on behalf of the State respondent No. 1 has submitted that the charge sheet has already been filed with a prima facie finding that the petitioner/accused is involved in the alleged offence, for which he has to stand trial. Though, at this stage, the prayer for grant of pre-arrest bail is not strongly objected to, the learned AAG, has, however, submitted that stringent conditions may be imposed. He also submits that the petitioner/accused may be restrained to function as teacher of Gandim Government L.P. School where the survivor is also studying, so as to ensure that there is no contact between them. He prays that the petitioner/accused may be allowed to resume his duty at the said school on completion of the recording of the evidence of the survivor. To this proposition, the learned counsel for the petitioner/accused has no objection

and has assured that necessary steps will be taken in this regard as far as the petitioner/accused is concerned.

5. On consideration of the facts and circumstances of this case, taking into account that the investigation is complete with the filing of the charge sheet/final report, and also looking into the antecedent of the petitioner/accused, this Court is inclined to allow the prayer made for grant of pre-arrest bail. The interim bail granted is hereby made absolute. However, the petitioner/accused is to comply with the following conditions/directions as under:

- i) That he shall not abscond or tamper with the evidence and witnesses;
- ii) That he shall bind himself on a personal bond of ₹ 1,00,000/- (Rupees one lakh) only with one surety of like amount to the satisfaction of the Trial Court;
- iii) As has been consented to by the petitioner/accused himself, he shall abstain from his duties at the said school by whatever manner he deems fit and proper in accordance with the relevant rules;
- iv) That he shall be allowed to resume his duty only after the

completion of the recording of the evidence of the survivor;

- v) In case the petitioner/accused chooses to go on leave as entitled to, it would be incumbent on his part to inform the Trial Court accordingly.

6. Needless to say, any violation of the conditions stated hereinabove, would allow the prosecution to file an application for cancellation of this bail before the Trial Court.

7. In view of the above, this application is accordingly disposed of.

No costs.

Judge

Meghalaya
02.05.2024
"D. Nary, PS"