



Serial Nos. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 12 of 2025

Date of Decision: 11.03.2025

Shri. Thosterning Lyngdoh Nonglait,
S/o Shri. Phram Mawlong
R/o Maroit, Mairang Eastern
West District, Meghalaya

.....**Petitioner**

- Vs -

1. The State of Meghalaya,
Represented through Secretary and
Commissioner, Home Police Department,
Government of Meghalaya.
2. The Superintendent of Police,
Shillong, East Khasi Hills District,
Meghalaya.
3. Smti. Klisda Mukhim
M/o XXXX
T/A Mawiong Umjapung
P/A Nongkhroh Village Nartiang,
West Jaintia Hills District,
Meghalaya – 793151.

.....**Respondents**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Ms. S. Nonsiej, Adv.



For the Respondent(s) : Mr. K. Khan, PP with
Mr. S. Sengupta, Addl. PP. for R 1 & 2.
Ms. P. Chettri, Legal Aid Counsel
For R 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 Ms. S. Nongsiej, learned counsel for the petitioner, who has submitted that the petitioner being implicated in Diengpasoh P.S. Case No. 01 (03) 2023 under Section 5(g)/6 of the POCSO Act, has been in custody for more than 2 years or so from the date of his arrest. In the meantime, the trial has proceeded, and the stage of the case before the Trial Court is for recording of evidence, out of thirty-two witnesses, four of them have been examined including the complainant, the survivor and other two witnesses, the rest of the witnesses are mostly official witnesses.

2. This being the case, the learned counsel submits that, since there is no possibility of the petitioner/accused to tamper with the evidence or to threaten the survivor or the complainant for that matter, and also the fact that the accused person is a young man of 23 years old, having a wife and minor child, on such consideration, she prays that this Court may be pleased to enlarge the petitioner/accused on bail with any conditions as deemed fit and



proper to be imposed by this Court.

3. Ms. P. Chettri, learned Legal Aid Counsel appearing for the respondent No. 3/complainant, has opposed the prayer made by the learned counsel for the petitioner/accused, but, has, however left the matter to the discretion of this Court as far as grant or non-grant of bail is concerned.

4. Mr. K. Khan, learned PP assisted by Mr. S. Sengupta, learned Addl. PP for the State respondent Nos. 1 & 2 has submitted that, though, the offence involved is serious in nature, however, considering the fact that the case has taken some time to proceed, also considering the number of witnesses left to be examined, it may not be possible for the case to be disposed of in the near future. Therefore, he submits that the matter is left to the discretion of this Court to pass necessary orders.

5. This Court has considered the submission made by the parties, and has perused the petition in hand. The FIR annexed to this petition, would reveal the fact that the minor daughter of the complainant had been sexually assaulted by three persons, one of whom is the petitioner herein, and on the basis of such complaint, the FIR was registered and a case under the POCSO Act was initiated.

6. On investigation being completed, the Investigating Officer has



find it fit to pray before the Trial Court for continuation of the trial as far as the accused persons are concerned including the petitioner/accused herein on the ground that there is prima facie evidence against them for having committed the offence alleged.

7. This Court has also perused the evidence of the survivor, who has deposed before the Trial Court as PW. 1. On going through the deposition, the survivor had vividly recalled the incident and the manner in which the offence was perpetrated upon her by three persons including the petitioner/accused herein. It may not be necessary to reproduce to whatever has been recorded in her deposition, suffice it to say that such evidence has shaken the conscience of this Court, considering the assault meted out to the survivor by the three accused persons. While considering the matter for grant of bail, the court is bound to adhere to the off repeated principle of bail, wherein the Hon'ble Supreme Court in a catena of judgments, has laid down certain guidelines and parameters of how bail is to be considered. One of such principle to be considered by the court is the gravity of the alleged offence apart from other consideration. In fact, though the plea of the prolongation of the trial has been taken, that by itself, is not a hard and fast rule for bail to be automatically granted, the peculiar facts and circumstances of each case has to be taken note of.



8. In view of the observation made hereinabove, this Court is not inclined to allow the prayer made in this petition, the same is accordingly dismissed. Before parting, this Court would request the Trial Court to proceed with the trial, and perhaps, in a matter of a few months, if trial is not concluded, the petitioner/accused is free to approach this Court once again.

9. Petition disposed of.

Judge