



Serial No. 03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 20 of 2025

Date of Decision:15.05.2025

Shri. Banlumlang Shullai,
S/o Shri R. War,
Resident of Lumsohkymphor,
Forest Colony, Shillong
East Khasi Hills District, Meghalaya

.....Applicant

VERSUS

1. State of Meghalaya,
Represented by the Public Prosecutor.
2. Smti. X (Complainant).
[Through the Investigating Officer (I.O.) of
Mawlai PS Case No. 63(8) 2022]

.....Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)	: Mr. S. Deb, Adv. Ms. S. Dhar, Adv.
For the Respondent(s)	: Mr. N. Syngkon, GA Mr. J.N. Rynjah, GA (For R 1) None for R 2

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



JUDGMENT (ORAL)

1. Heard Mr. S. Deb, learned counsel for the petitioner. Also heard Mr. N. Syngkon, learned GA for the State respondent.

2. The records would show that on being directed, the Investigating Officer (IO) had caused notice upon the complainant to be issued and the same was duly acknowledged, however, the complainant has not made any appearance in Court today.

3. In brief, the case of the petitioner is that his brother has been implicated as an accused in connection with Special (POCSO) Case No. 71 of 2022 pending before the court of the learned Special Judge (POCSO), East Khasi Hills, Shillong.

4. The case emanates out of an FIR lodged by the respondent No. 3 on 21.08.2022 alleging that her minor son aged about 11 years as well as her minor grandson aged about 6(six) years were sexually assaulted by the accused person on that day, that is, 21.08.2022 at about 1:30 p.m.

5. On receipt of such FIR, the Officer-in-charge, Mawlai, P.S. had caused registration of the FIR, the same being Mawlai P.S. Case No. 63(8) 2022 under Section 3(a)/4 POCSO Act.

6. The IO had filed the charge sheet and eventually the accused person was made to stand trial before the competent court of jurisdiction. The learned Trial Court has then framed charges but had framed such charges under Section 5 and 6 of the POCSO Act. The case is currently at the stage of recording of evidence of the prosecution witnesses who are 10



in all. The learned counsel for the petitioner has submitted that the accused person has been in custody since the date he was arrested on 22.08.2022 and is now about 3(three) years or so in custody. From amongst the witnesses, the principal witnesses, that is, the two survivors have had their deposition recorded by the Trial Court and the remaining 8(eight) witnesses are yet to be examined. Complaining that the trial is delayed, as such, the accused person may be enlarged on bail, particularly to allow him to prepare for his defense.

7. Mr. N. Syngkon, learned GA has opposed the prayer made, on the ground that the allegation made against the accused person and the charges framed would reflect the severity of the act perpetrated upon the survivors and as a result, they are traumatized.

8. Apart from this, the fact that the accused person is residing in close proximity with the two survivors, there is every possibility that his presence would cause further trauma to them and the accused may even threaten them. Under such circumstances, the prayer made in this petition may not be allowed, further submits the learned GA.

9. This Court has considered the submission made and has gone through the materials on record. The allegation made in the FIR are indeed serious which has warranted the Trial Court to frame charges under Section 5 and 6 of the POCSO Act. The recording of the evidence of the prosecution witnesses is undergoing and admittedly the two survivors have had their evidence recorded and were discharged. As far as investigation is concerned, there is no further scope for the same to be interfered as the charge sheet had already been filed. Therefore, the question of the accused



tampering with the evidence is ruled out. However, if enlarged on bail, the accused being practically the neighbour of the survivors may threaten them or as has been submitted his presence may cause further trauma to their psyche. To counter this, the learned counsel for the petitioner has categorically given an undertaking that the accused person would relocate himself far from the residence of the survivors.

10. Given the fact that the accused has been in custody for a period of over 3(three) years or so and the manner in which the trial is proceeding, the fact that the evidence of the two main witnesses, that is, the survivors have been recorded, this Court is of the considered opinion that at this stage, the accused person may be released if he abides by the conditions to be imposed by this Court.

11. Consequently, this petition is hereby allowed. The accused person is directed to be released on bail on the following conditions that:-

- i. He shall not abscond or tamper with the evidence;
- ii. He shall appear before the Trial Court as and when required;
- iii. He shall not come into contact with the survivors;
- iv. He shall not leave the jurisdiction of Meghalaya without the prior permission of the Trial Court; and
- v. He shall bind himself on a personal bond of ₹ 30,000/- (Rupees thirty thousand) only with one surety of like amount to the satisfaction of the Trial Court.



12. Petition disposed of.

Judge