



Serial No. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 29 of 2025

Date of Decision: 01.07.2025

Shri. Habizur Rohman, Son of Maham
Ali, resident of Teporpara, P.S. Ampati,
South West Garo Hills, Meghalaya.

..... **Petitioner**

- Vs-

1. State of Meghalaya, represented by
the Learned Public Prosecutor.
2. Mr. X (Informant),
Son of (L) P,
Resident of XYZ village.

..... **Respondents**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. L.N. Areng, Adv.
Mr. M.R. Marak, Adv.

For the Respondent(s) : Mr. A.S. Dey, 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 |

JUDGMENT AND ORDER (ORAL)

1. This matter is fixed today for filing of the status report by the



Investigating Officer as regard the issuance of notice upon the respondent No. 2/informant.

2. Mr. A.S. Dey, learned GA for the State respondent has produced the said report filed by the Investigating Officer to indicate that the notice issued upon the informant has been duly served and the option was also given to him to oppose this instant bail application either personally or through a counsel engaged by him or alternatively by engagement of a Legal Aid Counsel. However, the informant had indicated that he will be satisfied if the prosecution i.e. the PP take up the case on his behalf too. Accordingly, the said notice is deemed to have been served.

3. On merits, Mr. L.N. Areng, learned counsel for the petitioner has submitted that this petition has been filed by the brother-in-law of the accused person, Shri. Rofiquel Islam, who was arrested in connection with the case registered as Special (POCSO) Case No. 9 of 2023 arising out of the FIR and the subsequent registration of the same being Rongjeng P.S. Case No. 31 (10) 2015 under Section 363/366A/372 IPC.

4. The stage of the case after charge sheet has been filed is for recording of evidence, for which two witnesses have been examined which includes the complainant and the survivor. There are about 13 prosecution witnesses to be examined in this case. It is the submission of the learned



counsel that the application for consideration of bail on behalf of the accused person in question has been filed before this Court twice, and on both occasions, the prayer was rejected, firstly on the ground that the evidence or statement of the survivor is yet to be recorded and that since, there was no change in circumstances, therefore, the bail application was rejected.

5. However, it is also submitted that the case of the petitioner in this instant application is that, the accused person in question having been in custody for about 2 years or so, the evidence of the complainant and the survivor have been recorded and discharged, therefore, under such changed circumstances, coupled with the fact that the accused person has been in custody for a prolonged period of time, the trial seemingly going on for quite some time with no prospect of conclusion of the same in the near future, as such, on this ground alone, the prayer for grant of bail is made herein.

6. It is also the submission of the learned counsel that there are about four accused persons in the case involving the accused person in question, two of the accused persons have since been enlarged on bail. Therefore, on grounds of parity, the accused person in question may be considered by this Court for grant of bail. If enlarged on bail, the accused



person is willing to cooperate with the proceedings and would abide by any conditions to be imposed by this Court, further submits the learned counsel.

7. Per contra, the learned GA has vehemently opposed the prayer made, mostly on the ground that the facts and circumstances of the case and the ordeal that the survivor has undergone, would speak volumes about the conduct or action of the accused person in question as well as the other co-accused persons that the survivor was subjected to aggravated sexual assault on a number of occasions when she first encountered one of the co-accused namely, Abbas Ali, who had lured her on the pretext of being her boyfriend, and had eventually committed sexual assault upon her. It is this person who was also responsible for enticing the survivor which led to her being kidnapped and being sold as a piece of merchandise for the purpose of alleged marriage with another person whose name is Debu Singh and who is also one of the accused persons in the case.

8. Even so, without going into the details as has been stated by the survivor, what is apparent is that she has undergone a very traumatic phase in her life being used as a piece of flesh to comply with the whims and fancies of those who had taken control of her life till the time she was finally rescued. Under such circumstances, the learned GA has submitted that this is one of such cases which would not only shock the conscience of the



Court, but is an aberration to what societal life should be. It is therefore prayed that this petition deserves no merit to be considered by this Court and the same is liable to be dismissed.

9. This Court has carefully considered the submission made, and has also perused the petition and the annexures thereto.

10. On the basis of the submission made, the ground relied upon by the learned counsel for the petitioner is on account of the delay in the trial and the fact that the accused person in question is in custody for a prolonged period of time.

11. The prosecution on the other hand, has stressed on the facts and circumstances of the case involving the survivor, and would press that under such peculiar circumstances, the manner in which the offence was perpetrated upon the survivor, this Court, considering such severity, would refrain from exercising its discretion to allow bail to the accused person.

12. It is true that bail is a matter of discretion, however, it is also incumbent upon the Court to look into the facts and circumstances of the case of the accused as well as the survivor. It is also true that the accused person has been in custody for quite some time i.e. about 2 years or so, however, considering the fact that the survivor has undergone a very traumatic phase in her life, if released on bail, the knowledge of the accused



being at large, may affect her psychologically, if not, physically, thereby inflicting pain and stress on her personality.

13. Under such compelling circumstances, this Court is not inclined to allow the prayer made herein. This petition is accordingly dismissed as devoid of merits and the same is disposed of.

14. In parting, considering the fact that this case relates to an incident which happened almost 10 years ago and continuing till the matter was brought to the notice of the authorities concerned, the learned Trial Court is requested to proceed with the trial expeditiously.

Judge