



Serial No. 19
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 41 of 2025

Date of Decision: 06.10.2025

Smti. Balbinder Singh,
W/o Shri. Daut Peterson,
R/o Umiam Project Sumer,
Ri-Bhoi District, Meghalaya

..... **Petitioner**

- Vs -

1. State of Meghalaya represented by its
Secretary, Home (Police)
Department, Govt. of Meghalaya.
2. In Charge, WPSI,
Umiam P.S. Ri-Bhoi District.
3. Smti. "X" (Complainant),
C/o Umiam P.S. Ri-Bhoi, Meghalaya.

..... **Respondents**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)	:	Mr. R. Gurung, Adv. Ms. S.D. Sangma, Adv.
For the Respondent(s)	:	Mr. S. Sengupta, Addl. PP. Mr. H. Kharmih, Addl. PP. for R 1 & 2. Ms. K.H.L. Myrdon, LAC for R 3.

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

Yes/No

JUDGMENT AND ORDER (ORAL)

1. The petitioner is the wife of Shri. Daud Peterson, who is an accused in connection with Nongpoh Women P.S. Case No. 72 (10) 2024 under Section 7/8/9(m)/10/11(iii)/12 of the POCSO Act, who was arrested and is still in judicial custody till date. Hence, this petition is filed under Section 483 BNSS, 2023 with a prayer for grant of bail on behalf of the said accused person.

2. Mr. R. Gurung, learned counsel for the petitioner has submitted that the respondent No. 3 in her FIR dated 26.11.2024 filed before the Officer-in-Charge, Umiam Police Station, has alleged that the accused husband of the petitioner has molested her minor daughter aged about 9 years. In the said FIR, it was also stated that the minor daughter was found viewing adult videos on the mobile phone of her father, and when the father confronted her, the said minor daughter has confessed that it was the accused person who had showed her the videos when he had also molested her.

3. Accordingly, on the said FIR being registered, investigation was launched and the Investigating Officer, on completion of the investigation, has filed the Final Report/charge sheet on 09.01.2025, and the case was brought to trial with charges framed against the accused person. The stage of



the trial is for recording of the evidence of the prosecution witnesses. The evidence of the survivor has also been recorded by the Trial Court, submits the learned counsel.

4. It is the submission of the learned counsel that the allegation made against the accused person is based on very weak, manufactured and tutored evidences, particularly the allegation that the accused person had shown the said adult videos to the survivor, is unfounded, inasmuch as, during the course of investigation, both the mobile phones of the father as well as of the accused person have been seized, but there is no evidence forensic or otherwise to prove that such videos existed. In view of this, the case of the prosecution rests on a very weak wicket.

5. It is the further submission of the learned counsel that in any case, the accused person has filed applications for grant of bail before the Trial Court as well as before this Court which were rejected. The changed circumstances at present is that, the evidence of the survivor and two other witnesses have since been recorded, and as such, there is no question of tampering with the evidence or witnesses, the prayer for grant of bail on this count may be considered by this Court, taking into account, the fact that the accused person is the sole bread earner of the family and that there is no criminal record as far as he is concerned.

6. On the apprehension of the informant/respondent No. 3 that since



the families are living in close proximity, the presence of the accused person may upset or traumatized the survivor, the learned counsel has submitted that an undertaking is hereby given to ensure that the accused person, if enlarged on bail will be relocated to an area far away from the residence of the survivor.

7. It is therefore prayed that this petition may be allowed and the accused person in question be enlarged on bail with any conditions deemed fit and proper to be imposed by this Court.

8. Mr. S. Sengupta, learned Addl. PP for the State respondent Nos. 1 & 2, while opposing the prayer made by the petitioner, has firstly raised the issue of maintainability of this petition, to say that the name of the petitioner said to be the wife of the accused person did not match with those on record. Since the name of the wife has been listed as Balwinder Singh, whereas, the petitioner herein is Smti. Balbinder Singh, therefore, according to the learned Addl. PP, they are not one and the same person and could not have preferred this petition on behalf of the accused person. Secondly, that the petitioner has not been able to demonstrate the fact that there was a change in circumstances which has prompted this petition to be filed. Accordingly, no good grounds have been shown for this Court to allow this petition.

9. Ms. K.H.L. Myrdon, learned Legal Aid Counsel appearing for the



respondent No. 3/informant, has also endorsed the submission made by the learned Addl. PP and has further submitted that the apprehension of this respondent, is that, if enlarged on bail, the presence of the accused person in the vicinity of the place of residence of the survivor, would infuse a traumatic experience in the survivor, when the survivor is still undergoing conflicting negative emotions in the wake of whatever has happened in her life, as such, for her security, the prayer of the petitioner for grant of bail may not be granted.

10. This Court has considered the submission of the learned counsel for the respective parties, and being seisin of the case involving the accused person in question, the seriousness and gravity of the offence alleged, cannot be ignored and the due process of law has to be allowed to fulfill its course. However, it is also equally important to bear in mind that in bail jurisprudence, the principle of “bail and not jail” still hold the field whenever an application or prayer for grant of bail is made.

11. In this regard, the factors to be considered is firstly, that an accused person, if enlarged on bail, shall not abscond or flee from justice. Secondly, that since the period of investigation is over and the matter is before the concerned court for trial, therefore, there is no scope for tampering with the evidence or in this case, the main witness who is the survivor, since her evidence has already been recorded by the Trial Court. The only concern



is the apprehension of the survivor of emission of negative emotions, if the accused person is found in her presence. However, there are set procedures and safeguards devices by law and rules which would prevent such a situation.

12. The objection raised by the State respondent as far as the maintainability of this petition is concerned, on the ground that the same has been preferred by a stranger nor related to the accused person, this Court would discard such contention on being clarified by the learned counsel for the petitioner that it was a matter of clerical or typographical error for recording the incorrect name of the wife of the accused person, when in reality, she is one and the same person. In fact, the petitioner has also sworn the affidavit in this regard, and therefore, there can be no confusion as far as this aspect of the matter is concerned.

13. At this point of time, this Court is of the view that the prayer of the petitioner can be allowed with proper stricture to be imposed so as to allay the apprehension of the respondent No. 3 as far as the survivor is concerned.

14. Accordingly, this petition is allowed. The accused person in question is directed to be enlarged on bail on the following conditions:

- i) That he shall not abscond or tamper with the evidence or witnesses;



- ii) That he shall attend court as and when called for;
- iii) That he shall not leave the jurisdiction of Meghalaya, except with due permission of the court concerned;
- iv) That he shall relocate himself far from the residence of the survivor and under no circumstances will he come in personal contact with the survivor, unless directed by the Trial Court, if the same is warranted; and
- v) That he shall bind himself on a personal bond of ₹ 20,000/- (Rupees twenty thousand) with one surety of like amount to the satisfaction of the Trial Court.

15. In view of the above noted observations, this petition is accordingly disposed of. No costs.

Judge