



Serial No. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 42 of 2025

Date of Decision: 11.09.2025

Shri. Rahdor Thangkhiew
Son of Smti. Phyrnailang Thangkhiew
R/o Nongkseh, Block – II,
P.O Kynton, P.S. Jhalupara
East Khasi Hills District, Meghalaya
Presently lodged at District Prisons and
Correctional Home, Shillong,
East Khasi Hills District, Meghalayaa.

..... **Applicant**

- Vs-

1. State of Meghalaya
Through the Secretary Home Police
Department, East Khasi Hills District,
Meghalaya.
2. Officer-in-Charge
Lumdiengjri Police Station,
East Khasi Hills District, Meghalaya.
3. Smti X (complainant)
Through the Office-in-Charge,
Lumdiengjri Police Station,
East Khasi Hills District, Meghalaya

..... **Opposite Party**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. K.Ch. Gautam, Adv.



Ms. G.C. Marboh, Adv.
Mr. A.S. Singh, Adv.

For the Respondent(s) : Mr. H. Kharmih, Addl. PP.
Mr. S.A. Sheikh, GA. for R 1 & 2.
Ms. N.M. Kharshemlang, Adv. 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 Mr. K.Ch. Gautam, learned counsel for the applicant, who has submitted that this application made under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 for grant of bail on behalf of the applicant herein has been preferred on the ground that the applicant/accused has been incarcerated in custody since 14.05.2025 in connection with Lumdiengjri P.S. Case No. 43(05) 2025 under Section 3(a)/4/11(v) POCSO Act read with Section 351(2) BNS.

2. It is also the submission of the learned counsel that the case stems from an FIR dated 13.05.2025 filed by the respondent No. 3/complainant to the effect that, on a video being circulated, wherein her minor daughter was said to be involved with the applicant/accused depicting picture of a minor girl having a physical relationship, and which video also portrayed scenes of physical abuse inflicted upon the said minor



daughter of the complainant directly attributable to the action of the applicant herein. Therefore, a formal complaint in the form of an FIR was made before the Officer-in-Charge, Jhalupara Outpost. Hence, registration of the said criminal case.

3. In course of investigation, the applicant was arrested, and as has been submitted, is in custody till date. It is the further submission of the learned counsel for the petitioner that, admittedly, the applicant is in a relationship with the said minor daughter of the respondent No. 3/complainant and his age was 19 years old at the relevant point of time, the girl being 17 years old. He has however vehemently denied any unbecoming conduct on his part as far as the relationship is concerned, contesting that he is innocent and has been falsely and baselessly implicated in the case. That apart, the alleged video clipping has since been seized by the police and perhaps, may be forwarded for forensic examination. However, till date, the result of such examination, if at all, has not been made known to pinpoint the involvement of the applicant.

4. Be that as it may, the learned counsel for the applicant has reiterated that the applicant/accused, being a young person and a student having his future before him, the investigation in the case having been completed with the charge sheet already filed, albeit, with the Investigating



Officer, opining that he is found to be prima facie involved in the case and hence, has been sent to stand trial before the competent court of jurisdiction, the charges are yet to be framed by the court, and as such, there is no possibility for the proceedings to be concluded in the near future.

5. The learned counsel also submits that, on the ground that the process of investigation has been completed, and there is no scope for the applicant to interfere or tamper with the investigation or evidence or witnesses, at this point of time, his continued incarceration in custody, would serve no purpose, rather, it would hamper his right to be defended properly that is, to enable him to engage a counsel of his choice, brief his counsel accordingly, and to take part in the trial uninhabited.

6. Finally, it is the submission of the learned counsel for the applicant that, if this Court is inclined to enlarge the applicant on bail, any conditions imposed will be complied with by the applicant. In this regard, the learned counsel has also referred to the order dated 20.09.2025 passed by this Court in the case of Smti. Sheba Dhar v. State of Meghalaya in BA. No. 7 of 2021, wherein in a case of similar circumstances, this Court at para 9, 10 and 11 of the same, had made certain observations as far as the issue of grant of bail is concerned, particularly the circumstances surrounding consideration of grant of bail.



7. The case of Sanjay Chandra v. CBI reported in (2012) 1 SCC 40, para 21 and 22 has also been cited by this Court in the said case, which incidentally may also be applicable to the case in hand, submits the learned counsel for the applicant.

8. Per contra, Mr. H. Kharmih, learned Addl. PP appearing for the State respondent Nos. 1 & 2, while opposing the prayer made by the learned counsel for the applicant, has submitted that the factum of the case involving the applicant, is starkly apparent, inasmuch as, the statement of the survivor recorded under Section 164 Cr.P.C before the Magistrate, has clearly implicated the applicant and she has in great details, narrated the sequence of events which has proven that the applicant has indeed committed sexual assault upon her person, and has also recorded the whole incident on video.

9. The submission of another witness has also been pointed out by the learned Addl. PP, to say that, this witness has also confirmed the fact that it was the applicant who has shown him the said video which has been circulated in various groups, meaning thereby that the reputation of the survivor has been tarnished in view thereof. However, the learned Addl. PP has finally submitted that as far as the grant of bail is concerned, the same is left to the discretion of this Court.



10. The respondent No. 3/complainant is also represented before this Court through the learned counsel, Ms. N.M. Kharshemlang, who in her submission has not made any strong objection to the prayer made in this application, but has however maintained that, if this Court is pleased to release the applicant on bail, stringent conditions may be imposed.

11. This Court has considered the submission made by the learned counsel for the respective parties, and has also perused the application, the case as stated above need not be repeated. The accusation against the applicant has been consolidated by the statement of the survivor and the witnesses, which statement has been perused by this Court, the same being annexed in this application as Annexure-V at page 38 and 39 respectively. Prima facie, it appears that the applicant/accused has to answer for his alleged involvement in the whole episode, particularly his relationship and conduct towards the survivor. However, it is true that, by these evidences that has been recorded by the Investigating Officer, the same will have to be tested at the trial, for which the accused person will be given an opportunity to defend his cause or to deflect such accusations against him in accordance with due procedure of law.

12. As has been submitted by the learned counsel for the applicant, at this point of time, considering the fact that the investigation has been



completed, and the case is before the Trial Court for the trial to proceed, and also considering the fact that the applicant is a young person with no criminal antecedent or prior criminal record, therefore, in view of the proposition of law laid down in the said Sanjay Chandra case, which is worthwhile to be repeated, and is found relevant in the facts and circumstances of this case, this Court is of the opinion that the prayer made in this application be allowed. The relevant para of Sanjay Chandra case i.e. para 21 and 22 are reproduced herein below for ready reference:

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances”.

13. Accordingly, this application is allowed.



14. The applicant/accused is directed to be released on bail, if not wanted in any other case on the following conditions:

- i) That he shall not abscond or tamper with the evidence and witnesses;
- ii) That he shall attend court as and when called for;
- iii) That he shall not leave the jurisdiction of the State of Meghalaya, except with due permission of the court concerned;
- iv) That he shall not come into contact with the survivor in course of trial, only if so required or directed by the court; and
- v) That 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.

15. In view of the above, this application is accordingly disposed of.
No costs.

Judge