



Serial No. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 48 of 2025

Date of Decision: 03.11.2025

Smti. Loksidora Shangdiar,
W/o Shri. Ristar Lyngdoh,
R/o Marshillong Village,
P.S. Mawkyrwat,
South West Khasi Hills District,
Meghalaya.

..... Applicant

- Vs-

1. State of Meghalaya
Through the Superintendent of Police,
South West Khasi Hills District,
Meghalaya.

3. (Complainant)
F/o Miss X (survivor)
R/o Mawkhyrwang Village,
P.S Mawkyrwat,
South Khasi Hills District, Meghalaya.

..... Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)	:	Mr. L. Syiem, Adv.
For the Respondent(s)	:	Mr. S. Sengupta, Addl. PP with Ms. S. Kh. Nongrum, GA for R 1. Ms. S. Nongsiej, LAC/R 3.



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| i) | Whether approved for reporting in
Law journals etc.: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |
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JUDGMENT AND ORDER (ORAL)

1. Heard Mr. L. Syiem, learned counsel for the applicant, who has submitted that the facts leading to the filing of this application made under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 read with Section 31 of the POCSO Act, 2012 with a prayer for grant of bail is that the accused husband of the applicant, Shri. Ristar Lyngdoh was arrested on 29.03.2025 on the basis of an FIR dated 29.03.2025 filed by the respondent No. 3 herein as complainant, the same being registered as Mawkyrwat Women P.S. Case No. 03 (03) 2025 under Section 5(k)/6/16/17 POCSO Act pending before the Court of the learned Special Judge, (POCSO) at Mawkyrwat, South West Khasi Hills District, Meghalaya.

2. The learned counsel has also submitted that the cause of action as has been submitted originates from the said FIR, wherein the complainant had alleged that his minor daughter, who was mentally challenged, was forced to consume intoxicating substance, and was eventually sexually assaulted by the accused husband of the applicant on 23.03.2025. The fact which came to the complainant's knowledge being that on the said date at



about 7:00 or 8:00 PM, one Smti. Diarnes Marngar (co-accused), had induced his minor daughter to accompany her, and that his minor daughter thereafter did not come home that night, and after she went missing, she came back home the next day i.e. on 24.03.2025 and did not say or narrate anything about what happened to her the previous night. It was only on the intervention of her aunt, who inquired about her disappearance and eventually came to know of the involvement of the said Smti. Diarnes Marngar, and with the assistance of members of an NGO, they confronted the said Smti. Diarnes Marngar, who confessed that she and the accused husband of the applicant were responsible for the minor girl to consume the said intoxicating substance, after which she was sexually assaulted by the said accused husband of the applicant.

3. The learned counsel has further submitted that, from the materials on record, including the record statement of the survivor, nothing has been established to indicate that the accused husband of the applicant had sexually assaulted the minor girl. Though, the minor girl had narrated the incident, inasmuch as, she had stated that it was Smti. Diarnes Marngar who had taken her on a ride in one vehicle and had taken her to the market place and also, she had informed her that she would go to the Civil Hospital, Mawkyrwat to get some medicines. It was in the vehicle that she was made to drink a liquid,



and thereafter, she lost consciousness. The minor girl has also further stated in her statement that in the said vehicle, there were three males along with the said Smti. Diarnes Marngar. It was only in the morning that she became conscious and found herself sleeping in the said vehicle where she came to know the person who had driven the said vehicle was the accused husband of the applicant.

4. It is the further submission of the learned counsel that there is no clear evidence that the minor girl was sexually assaulted by the accused husband of the applicant, since she was not in a position to know who had sexually assaulted her, considering the fact that she had indicated that at that point of time, she was not conscious. It was also in the statement of the minor girl that when she woke up, she found blood in the frontal part of her wearing apparel, which would indicate that she was sexually assaulted, however, the medical report in this regard, would show that the blood was due to the fact that the said minor girl was having her menstrual period at that point of time. The materials on record would therefore prove that nothing has been specifically or clearly attributed to the accused person, to say that he had sexually assaulted the minor girl.

5. The second limb of submission of the learned counsel is that, in this case, the co-accused i.e. Smti. Diarnes Marngar had already been



released on bail by the court of competent jurisdiction, and as such, on the ground of parity, the prayer made in this application for grant of bail may also be allowed.

6. The fact that the accused person has been languishing in judicial custody for more than six months or so, and that he is the only bread earner of the family, therefore, considering the many authorities on bail jurisprudence, wherein the Apex Court as well as many High Courts have reiterated that the principle of bail and not jail, should be applied in most of such kinds of cases. Therefore, it is the prayer of the applicant that this petition may be allowed and bail may be granted to the accused person with any conditions as deemed fit and proper to be imposed by this Court.

7. Per contra, Mr. S. Sengupta, learned Addl. PP along with Ms. S. Kh. Nongrum, learned GA for the State respondent No. 1 has strongly opposed the prayer made in this application on the ground that the victim involved, is a minor girl and there are also indications that she is mentally challenged, and therefore, in that condition, she was taken advantage of by the accused person. Accordingly, it is the submission of the learned Addl. PP that on the basis of what has been stated by the minor girl in her statement before the police as well as before the Magistrate which has pointed the finger of accusation against the accused person in question, therefore, this



petition is devoid of merits and the same is liable to be dismissed.

8. Ms. S. Nongsiej, learned Legal Aid Counsel appearing on behalf of the respondent No. 3/complainant has also endorsed the submission made by the learned Addl. PP and has reiterated that, though, it could not be confirmed by documentary proof, however, the fact that the minor victim girl is mentally challenged, has been indicated by the complainant in his FIR and also at many places found from the materials on record. The fact being that the family of the minor girl are rustic villagers and does not have the wherewithal to approach the competent authorities for a certificate as far as the mental stability of the minor girl is concerned, therefore, as has been pointed out, being taken advantage of by the accused person, the minor girl became the victim of a depraved mind, particularly that of the accused person in question. Therefore, the prayer made in this application is strongly resisted by the complainant/respondent No. 3.

9. This Court has considered the case of the parties, facts as indicated above need not be repeated, what has been brought on record is that the accused person in question was arrested on an accusation made under the relevant provisions of the POCSO Act, which indicates that an offence or crime have been committed against the child, more particularly, in this case being an offence of penetrative sexual assault.



10. From an analysis of the statement of the minor girl as well as that of the co-accused, Smti. Diarnes Marngar, what could be understood is that the minor girl has accompanied the said Smti. Diarnes Marngar on 23.03.2025, and her last recollection was that she was given something to drink and immediately, she lost her consciousness, and when she woke up the next morning, she was in a car along with the accused husband of the applicant, and that she also noticed that she had blood stains on her clothes. Prima facie, there can be no other explanation, and in course of trial, according to the provision of Section 29 of the POCSO Act, the burden of proof, would shift on the accused person to explain such a situation.

11. However, it has also been pointed out that the matter has proceeded only to the extent of consideration of charges or rather framing of charge or charges by the court, as such, evidence by the prosecution have not yet been recorded.

12. Be that as it may, since there is a clear statement made by the minor girl, implicating the accused person in question as well as the other co-accused person, Smti. Diarnes Marngar, the needle of suspicion at this point of time, can only be pointed at to the accused husband of the applicant. Of course, eventually, it would be a matter of evidence, particularly from the prosecution side to bring home the charges against the accused person,



however, considering the fact that a minor girl who is said to be mentally challenged and being taken advantage of and also sexually assaulted, this Court, at this point of time, is of the considered opinion that no case has been made out by the applicant for grant of bail to the accused person in question.

13. The fact that he is obviously residing within the vicinity of the residence of the minor girl at Mawkyrwat, there is always the possibility of the minor girl undergoing a traumatic experience every time she encounters the accused person. At this stage, as has been indicated above, no grounds have been made out for this Court to consider the prayer made. Accordingly, this petition is hereby dismissed as devoid of merits and the same is disposed of. No costs.

Judge