



Serial No. 10
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 51 of 2025

Date of Decision: 11.12.2025

Shri David Das
S/o Promod Das
R/O- Nongmensong, Langkyrding, Shillong,
East Khasi Hills District, Meghalaya

.....Petitioner

-Versus-

1. The State of Meghalaya
Represented by its Secretary Home(Police) Department
Government of Meghalaya.

Shri XXX
(Complainant)
Father of Miss XXXX
R/o XXX

.....Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Ms. S. Nongsiej, Adv

For the Respondent(s) : Mr. S. Sengupta, Addl. PP
Mr. A.M. Pala, GA
Ms. Kathie M. Decruse, LAC



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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 Ms. S. Nongsiej, learned counsel for the petitioner also heard Mr. S. Sengupta, learned Addl. PP for the State respondent and Ms. Kathie M. Decruse, LAC for the respondent No. 2 complainant.

2. It is the submission of the learned counsel for the applicant that he has been implicated in a case in connection with Rynjah Police Case No. 302 (10) of 2025 U/S 3(a) and 4 of the POCSO Act for which he was accordingly arrested on 10th October, 2025 and is still in custody till date. The learned counsel has also led this Court to the FIR annexed as Annexure A in this application wherein is found the complaint made by the respondent No. 2 to the Officer Incharge, Jhalupara Beat House stating that the applicant was having a sexual relationship with his minor daughter aged about 17 years and therefore on the FIR being registered the offence under the POCSO Act was set out against the applicant.

3. The learned counsel has further submitted that admittedly the applicant and the minor daughter of the respondent complainant are in a romantic relationship out of which they had involved themselves in a sexual relationship, this being the case, there is no question of actual sexual assault committed against the minor daughter of the appellant, the same being consensual in nature.



4. However, the learned counsel submits at this point of time, considering the fact that the applicant is a young man of about 24 years old and is a student pursuing his studies, as such he may be allowed to be enlarged on bail with any conditions that this Court deemed fit to impose.

5. Mr. S. Sengupta, learned Addl. PP has submitted that the Case Diary as called for and has been produced before this Court today and as pointed out that in the Case Diary, there is found an undertaking given by the applicant wherein he has admitted to having a physical relationship with the minor daughter of the complainant but however has also, apart from owning responsibility for his action, committed himself to marry his girlfriend when she comes of age.

6. Ms. K.M. Decruse, LAC, in her submission has only pointed out that as far as the issue of default bail is concerned. In this instant case, there is no question for default bail in spite of the charge sheet not having been filed till date since the offence involved punishment of 7 years or more which would indicate that the period of investigation in such cases would be stretched to 90 days, the said period not having been completed in this instant case. The case of Rakesh Kumar Paul vs. State of Assam reported in (2017) 15 SCC 67 para 71 has been cited in this regard.

7. This Court has considered the submission made by the parties and on the basis of the submission made as well as on perusal of the application and the relevant contents of the Case Diary, would come to the finding that the case of the applicant as far as his relationship with the minor daughter of the complainant is concerned is one of a romantic relationship when, the said minor girl has admitted in her statement before the Magistrate, that



the applicant is her boyfriend, the fact that the act of sexual inter course was also carried out by the couple is also an admitted fact.

8. However, it will be a matter of evidence and consideration on the merits of the case as to whether the applicant would be liable for such action or not.

9. As far as this prayer made in the application is concerned, the applicant has approached this Court with a prayer for grant of bail, taking into account the above mentioned observations, this Court in a case of this nature would refer to the case of Vijayalakshmi & anr v. State represented by the Inspector of Police & anr reported in 2021 SCC Online Mad 317, para 18, where it has observed that:

"18. In the present case, the 2nd Petitioner who was in a relationship with the 2nd Respondent who is also in his early twenties, has clearly stated that she was the one who insisted that the 2nd Respondent take her away from her home and marry her, due to the pressure exerted by her parents. The 2nd Respondent, who was placed in a very precarious situation decided to concede to the demand of the 2nd Petitioner. Thereafter, they eloped from their respective homes, got married and consummated the marriage. Incidents of this nature keep occurring regularly even now in villages and towns and occasionally in cities. After the parents or family lodge a complaint, the police register FIRs for offences of kidnapping and various offences under the POCSO Act. Several criminal cases booked under the POCSO Act fall under this category. As a consequence of such a FIR being registered, invariably the boy gets arrested and thereafter, his youthful life comes to a grinding halt. The provisions of the POCSO Act,



as it stands today, will surely make the acts of the boy an offence due to its stringent nature. An adolescent boy caught in a situation like this will surely have no defense if the criminal case is taken to its logical end. Punishing an adolescent boy who enters into a relationship with a minor girl by treating him as an offender, was never the objective of the POCSO Act. An adolescent boy and girl who are in the grips of their hormones and biological changes and whose decision-making ability is yet to fully develop, should essentially receive the support and guidance of their parents and the society at large. These incidents should never be perceived from an adult's point of view and such an understanding will in fact lead to lack of empathy. An adolescent boy who is sent to prison in a case of this nature will be persecuted throughout his life. It is high time that the legislature takes into consideration cases of this nature involving adolescents involved in relationships and swiftly bring in necessary amendments under the Act. The legislature has to keep pace with the changing societal needs and bring about necessary changes in law and more particularly in a stringent law such as the POCSO Act."

10. As to the question of default bail, the issue would not be material for consideration as the same has not been pressed for by the applicant.

11. Accordingly, this application is hereby allowed, the accused person is directed to be enlarged on bail, on the following conditions: -

- i. *That he shall not abscond or tamper with the evidence and witnesses;*
- ii. *That he shall not come into contact with the survivor in course of trial, only if so required or directed by the Court;*



- iii. *That he shall attend court as and when called for;*
- iv. *That he shall not leave the jurisdiction of Meghalaya, except with due permission of the court concerned; and*
- v. *That he shall bind himself on a bond of ₹ 20,000/- (Rupees twenty thousand) only along with one surety of like amount to the satisfaction of the Trial Court*

12. In case of violation of the abovementioned conditions, the prosecution is at liberty to move the Trial Court for cancellation of the bail.

Petition disposed of.

Judge

Meghalaya
11.12.2025
"Khrav"