

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

Bail Appln. No. 6 of 2025

Asem Konungjao Singh aged about 40 years S/o (L) A. Tomba Singh, a resident of Samaram Maning (Sabal) Leikai, P.O. Wangjing, P.S. Kongjom, District Thoubal, Manipur

... Petitioner/Accused

- Versus -

Officer-in-Charge, Kongjom P.S., Thoubal District, Manipur

... Respondent

**B E F O R E
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the petitioner : Mr. K. Achouba, Adv.

For the respondent : Mr. H. Samarjit, PP & Mr. L. Somorendro Roy, Jr.GA

Date of reserved : 06.02.2026

Date of Judgement : **10.09.2026**

**JUDGEMENT & ORDER
(CAV)**

[1] Heard Mr. K. Achouba, learned counsel for the petitioner/accused and Mr. H. Samarjit, learned PP assisted by Mr. L. Somorendro Roy, learned jr. GA for the State respondent.

[2] The present bail application has been filed by the petitioner/accused under Section 439 of the Cr. P.C., 1973 corresponding with Section 483 of BNSS, 2023 praying for releasing him on bail in connection with FIR Case No. 56(12) 2022 Khongjom P.S., under Section 6 of the Prevention of Children from Sexual Offence (POCSO) Act, 2012.



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[3] The facts of the present case is that the petitioner/accused was arrested by police on 17.02.2022 in connection with FIR Case No. 56(12) 2022 KJM-P.S. under Sections 6 POCSO Act and 506 IPC based on a complaint made by victim mother that her daughter was sexual assaulted by the petitioner/accused. The petitioner filed an application being Cril. Misc. (B) Case No. 250 of 2023 before the Ld. Special Judge (POCSO), Thoubal, Manipur for releasing him on bail and the same was rejected on 26.06.2023 by the Ld. Special Judge (POCSO), Thoubal, as the Court was yet to receive police charge sheet and in the nature of serious allegation. Thereafter, the petitioner filed a first bail application being Bail Appln. No. 21 of 2023 before this Court and the same was disposed of on 17.10.2023 with a direction to the Ld. Special Court POCSO, Thoubal to decide the charge hearing as expeditiously as possible keeping in view of the provisions of Section 35 of the POCSO Act, 2012. The petitioner again filed another bail application being Bail Appln. No. 17 of 2024 before this Court for releasing him on bail during the pendency of the charge hearing before the Ld. Speical Court (POCSO), Thoubal and the same was disposed of on 09.09.2024 with a specific direction to the Ld. Special Court (POCSO), Thoubal, Manipur to dispose of the present Spl. T/POCSO/6/2023 within a period of 5(five) months from the date of order i.e. 09.09.2024. Vide order dated 19.10.2024 in Sessions Trial (POCSO) Case No. 6 of 2023, the Ld. Special Judge (POCSO), Thoubal passed an order framing charge against the petitioner/accused for offences under Sections 6 of the POCSO Act and 506 of the IPC. On 16.01.2025, the Ld. Special Court (POCSO), Thoubal fixed 27.02.2025 for continuation of P.W. Examination, but the Special Trial is not completed within the time (i.e. 5 months) stipulated by this Court. Hence, the present bail application.

[4] Mr. K. Achouba, learned counsel for the petitioner submits that the 5 months' time fixed by this Court for completion of the trial from the date of order (i.e., 09.09.2024) has already expired on 08.02.2025 and the prosecution has not filed any application before this Court for extending the period for completion of trial beyond five months period fixed; and hence continuation of the trial is without any jurisdiction and without authority. The provisions of Section 35 of POCSO Act, 2012 for examination of victim within 30



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days of taking cognizance and completion of trial within one year of cognizance is also violated. Cognizance was taken on 27.11.2023, charge was framed only on 19.10.2024 after one year of cognizance and victim was examined much later on. The reason of filing the present application (3rd one) is no the ground of non-completion of trial within 5 months as directed by this Court in order dated 09.09.2024 and non-extension of time in this regard. On merit, Mr. K. Achouba, learned counsel for the petitioner submits that there is good ground for acquittal as the allegation of penetrative sexual assault for three times could not be established by the medical examination report of the victim, which gave a finding ruling out penetrative sexual assault, but affirming possibility of sexual assault simpliciter. It is pointed out that out of 10 witnesses cited by the prosecution, till date only 4 PWs including the complainant, victim and two doctors have been examined and with the slow pace of trial, it is not likely to complete within a reasonable time.

[5] Mr. K. Achouba, learned counsel for the petitioner refers to the decision of Hon'ble Supreme Court in the case of **Sanjay Chandra v. CBI: (2012) 1 SCC 40 @ Para 21** to the point that "*... The object of bail is neither punitive nor preventive. ...*". Reliance is also place on the decision of **Hussain v. Union of India: AIR 2017 SC 1362 @ Para 11** "*..... Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. while a person in custody may not be released if trial is delayed, trial has to be expedited or bail has to be granted in such cases.*". Learned counsel further cites the decision in **Hanamant v. State of Karnataka: 2017 CriLJ 1477** where accused was released on bail as FSL report did not support any recent sexual intercourse contrary to as stated in the complaint. He refers to decision of this Court in the case of **Shamurailatpam Tomba Sharma v. State of Manipur: 2019:MNHC:1362** holding that the accused in custody for four months was released on bail on submission of chargesheet as further custody and interrogation was not required. Another decision of Hon'ble Supreme Court in the case of **Bhadresh Kumar Patel v. Union of India [SLP(CrI) No. 2622 of 2025, order dated 29.09.2025]**, where accused in custody for two years for narcotic offence was released on bail on ground of slow trial. Learned counsel



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submits that the present case is also covered by the decisions cited above and the petitioner may be released on bail considering long incarceration without much progress in trial and insufficient materials.

[6] Per contra, Mr. H. Samarjit, learned PP submits that the accused and the victim are neighbours and if the accused is released on bail, it will traumatize the victim. It is highlighted that the accused is involved in heinous offence which, if convicted, liable for a maximum sentence upto 20 years. In a bail application, the merit of the ongoing trial cannot be looked into by this Court. The failure to complete the trial within 5 months as directed by this Court will not automatically efface the trial in heinous offence against child. Repeated bail applications are not maintainable without any substantive change in circumstances. Learned PP relies on the decisions of **Ramesh Kumar Singh v. State of Bihar: 1987 (Suppl) SCC 335** and **State of TN v. S A Raja: (2005) 8 SCC 380**.

[7] This Court has considered the materials on record and decisions cited at bar. It may be noted that vide order dated 10.07.2026 passed by learned Spl. Judge (POCSO), Thoubal, the case has been transferred to the court of learned Special Judge, Fast Tract Special Court No.2, Lamphel Court Complex in view of order dated 10.06.2026 passed by this Court in Transfer Petition (Crl.) No. 2 of 2026.

[8] In the present case, the accused was arrested on 17.12.2022 and he is in custody till date. In spite of direction of this Court in order dated 09.09.2024 to complete within 5 months, only 4 PWs have been examined till date. No application has been moved by the prosecution for extension of time. It is clarified that failure to do so does not efface the trial under POCSO; but as a matter of prudence, it is incumbent upon the prosecution or on the Special Judge to move an application for extension of time in view of specific direction. It is seen that there is slow pace in the trial. Even if the medical examination report of the victim ruled out penetrative sexual intercourse, but expressing opinion on possibility of sexual offence; this Court is not expressing any opinion



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on this piece of evidence, but the same is referred for the limitation purpose of bail application.

[9] In view of the above factual discussion and position of law, this Court of considered view that the accused is entitled to bail on slow progress in trial keeping in mind the long incarceration of more than three and half years. In the circumstances, the petitioner is released on bail on submission of personal bond of Rs.50,000/- [Rupees fifty thousand] with a surety [gazetted officer] of like amount to the satisfaction of learned Special Judge FTSC No.2, Lamphelpat on the following conditions:

- (i) He shall appear before the Court on every date fixed by the Court or as directed by the Court from time to time.
- (ii) He shall not try to influence any persons acquainted with the facts of the present case.
- (iii) He shall not temper with any materials/evidence of the case.
- (iv) He shall not leave the State of Manipur without the leave of the Special Judge, FTSC No.2, Lamphelpat.
- (v) The passport, if any, of the petitioner shall be surrendered before the Special Judge, FTSC No.2, Lamphelpat.
- (vi) The petitioner shall not reside within 5 km radius from the residence of the victim and shall not interact with the victim.
- (vii) On violation of any of the aforesaid conditions, the State respondent is free to approach this Court for cancellation of the bail.

[10] With these observations, Bail Appln. No. 6 of 2025 is allowed and disposed of.

[11] Before concluding, it may be clarified that this Court does not express any opinion on the merit of the case including the complexity of the petitioner in connection with the present FIR and nothing stated and observed herein, shall prejudice the Trial Court in the ongoing trial. Any observations and findings made herein is confined for disposal of the bail application and the same



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shall not construe as expression of the opinion by this Court on the merit of the case. Trial Court is free to form its own opinion as per law in the factual circumstances.

[12] Registry is directed to send a copy of this order to the learned Special Judge, FTSC No.2, Lamphelpat, Manipur for information.

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JUDGE