



HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 30 of 2026

Date of Order: 29.06.2026

Shri. Rishanlang Marbaniang
S/o Shri. Aibor Warjri
R/o Nongtraw Village
PS Umiam, PO Bhoirymbong,
Ri-Bhoi District, Meghalaya

.... Applicant

-Vs-

1. State of Meghalaya,
Represented by the Commissioner &
Secretary, Home (Police) Department.

2. Smti. X (complainant/ survivor),
[Through the Investigating Officer]

.... Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

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

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Deb, Adv. with
Ms. M. Nayang, Adv.

For the Respondent(s) : Mr. Atiar. S. Dey. GA for R 1
Ms. P. Chettri, LAC for R 2

JUDGMENT AND ORDER (ORAL)

1. Heard Mr. S. Deb, learned counsel for the petitioner, who has submitted that this application is for grant of bail and has been filed on behalf of the accused Mr. Francis Marbaniang, the brother of the applicant herein.



2. It is the submission of the learned counsel for the applicant, that on the basis of the FIR dated 23.11.2025 lodged by the respondent/complainant herein before the Officer In-charge, PS Umiam, PO Bhoirymbong, Ri-Bhoi district, wherein allegation was made that the accused person in question has sexually assaulted her on 22.11.2025, he was accordingly arrested on 23.11.2025 and is still in custody till date.

3. Apart from the fact that the learned counsel has submitted that the accused person is innocent and has not committed any offence as alleged, however, the primary ground raised in this application for consideration of bail is that the fundamental rights of the accused has been violated, inasmuch as when he was initially arrested, he was not intimated of the grounds of arrest. Infact, in the memo of arrest found herein as Annexure-3 (page 27), at column No. 11 under the entry "*Sections of law*", the corresponding column remains blank, which means that there is no noting or information as to the relevant sections of law that the applicant is said to have committed the offence.

4. The mandatory intimation of grounds of arrest is also absent wherein from the records, it is seen that nothing has indicated as to whether such format has been prepared and whether the accused person was indeed intimated of such grounds of arrest in writing and in the language known to him. Therefore, on the basis of this fundamental flaw on behalf of the investigating agency, the learned counsel has submitted that the accused is entitled to be granted bail and, in the event, he is enlarged on bail, the accused will comply with any direction or condition to be imposed by this court, submits the learned counsel.

5. Mr. A.S. Dey, learned GA has produced the copy of Case Diary and has fairly submitted, that there is nothing on record to indicate that the accused person has been intimated of the grounds of the arrest at the time he was arrested.



6. Ms. P. Chettri, learned Legal Aid Counsel on behalf of respondent No. 2 has submitted that whatever technical defects are there which may allow the accused person to be enlarged on bail, the fact remains that the complainant has no relationship with the accused person and considering the fact that the case before the trial court is for framing of charge, if enlarged on bail, there is every possibility that the accused person may threaten the complainant, as they are residing nearby, that is, within ten minutes' walk or so. As such, the prayer made by applicant in this application may not be allowed.

7. This Court on considering submission made and has appreciated the fairness on the part of the learned GA whose submission is backed by the records, wherein on perusal of the case diary, it is indeed found that the intimation of the grounds of arrest has not been made known to the accused person. This apparent defect in the process of arrest does not speaks well of the role of the I/O (Investigating Officer) or the investigating agency, where in a catena of judgment on this issue, the Supreme Court is categorical that if the arrestee has not been furnished with the grounds of arrest in writing in the language known to him/her, then the provision of Article 22(1) read with Section 47(1) BNS has been violated. As such irrespective of the stage of such proceedings or trial, the accused is entitled to be enlarged on bail.

8. The Supreme Court in the case of Vihaan Kumar vs. State of Haryana and Ors., reported in (2025) 5 SCC 799 at para 26.2 has held as follows:

26.2. The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safe guard is achieved;



9. As has been observed, since the accused person in this case has also not been furnished or intimated of the grounds of arrest, this Court is constraint to allow the prayer made in this application.

10. In view of the above, this application is hereby allowed. The accused/petitioner 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 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; and that he shall not come in contact with the victim in any manner whatsoever during the pendency of the case.
- iv. That he shall bind himself on a bond of ₹50,000/- (Rupees fifty thousand) only along with one surety of like amount to the satisfaction of the trial court.

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

Judge

Meghalaya
29.06.2026
"Rishi Roy, PS"