



Serial No. 03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 59 of 2025

Date of Decision: 06.03.2026

Shri. Ewan M. Marak,
S/o Mingron Sangma,
R/o Cherengpara, P.O Dimapur,
P.S Gasuapara, South Garo Hills District,
Meghalaya.

..... **Petitioner**

- Vs-

1. State of Meghalaya represented by the
Learned Public Prosecutor.
2. Shri. X, son of Y, resident of Z.

..... **Respondents**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S.A. Sheikh, Adv.
Mr. M.R. Marak, Adv.

For the Respondent(s) : Mr. H. Kharmih, Addl. PP.
Mr. S. Sengupta, Addl. PP.

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| 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. H. Kharmih, learned Addl. PP on behalf of the State respondent, who has submitted that a report has been received from the Investigating Officer, wherein, it was indicated that the complainant, on being asked whether he would contest the case or engage a Legal Aid Counsel, has declined to do so. Accordingly, it is prayed that this matter may be heard in the absence of the complainant.

2. Also heard Mr. S.A. Sheikh, learned counsel for the petitioner, who has submitted that the accused person, Shri. Manjith R. Marak was arrested in connection with Baghmara Women P.S. Case No. 13 (08) 2023 under Section 354A IPC read with Section 7/8 of the POCSO Act. After the investigation was completed and charge sheet filed, the matter has proceeded before the Trial Court being Special (POCSO) Case No. 9 of 2023 pending before the Court of the learned Special Judge (POCSO), Baghmara, South Garo Hills.

3. The learned counsel also submits that the stage of the case is for recording of evidence of witnesses being nine of them, however, till date, only two witnesses have been examined including the survivor. As such, considering the fact that the accused person has been in custody for almost 2 ½ years, and there is no likelihood of the trial to be concluded in the next one



or two months, it is therefore prayed that the accused may be enlarged on bail to allow him to present his defence effectively.

4. The learned Addl. PP has reiterated that from the records as well as the statement of the survivor recorded under Section 164 Cr.P.C as well as her deposition in court as PW. 1, the survivor has maintained that the accused person in question has committed sexual assault on her person. Therefore, under such circumstances, the prayer of the petitioner may not be allowed

5. This Court on consideration of the submission made, is of the view that the case has travelled to the stage of evidence, which means that no further investigation is required, and the accused person may also not be required to give any further statement or to be questioned in the case. Since, he has been in custody for almost 2 ½ years, and as has been submitted, the stage of the case is for recording of evidence of the prosecution witnesses where only two witnesses have been examined out of nine, as such, it would serve no purpose to keep him in custody at this point of time.

6. Without going into the merits of the prosecution case, this Court, on this ground, is inclined to allow the prayer of the petitioner so as to enable the accused to defend his case effectively in a congenial atmosphere. Accordingly, this petition is hereby allowed.

7. The accused person, Shri. Manjith R. Marak is directed to be



released on bail on the following conditions:

- i) That he shall not abscond or tamper with the evidence or 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;
- iv) That he shall have no contact or shall not come into contact with the survivor during the course of trial, unless required to do so by a specific order of the Trial Court; and
- v) That he shall bind himself on a personal bond of ₹ 30,000/- (Rupees thirty thousand) with one surety of like amount to the satisfaction of the Trial Court.

8. In view of the above, this petition is disposed of accordingly. No costs.

Judge