**Serial No. 01**
**Regular List**

# HIGH COURT OF MEGHALAYA
# AT SHILLONG

BA No. 82 of 2026

Date of Decision: 26.10.2026
Uploaded on: 26.10.2026

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Shri Stoning Kharphuli
Son of (L) Jeterwel Synteng Nongdhar
Resident of Rangshken, Dong Manai
East Khasi Hills District
Meghalaya

……**Petitioner**

-Vs-

1. State of Meghalaya
   Represented by its Secretary Home (Police) Department
   Government of Meghalaya
   Shillong, Meghalaya.
2. XYZ
   Daughter of QRS
   Resident of ABC
   East Khasi Hills District
   Meghalaya.

**…Respondents**

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**Coram:**

**Hon'ble Mr. Justice W. Diengdoh, Judge**

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**Appearance:**

For the Petitioner/Appellant(s) : Mr. M.F. Qureshi, Adv.
Mr. L. Koch, Adv.

For the Respondent(s) : Mr. H. Kharmih, Addl. P.P
Ms. P. Chettri, GA (For R 1)
Mr. G. Syngkrem, LAC (For R 2)

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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 (ORAL):**

1. Heard Mr. M.F. Qureshi, learned counsel for the petitioner who has submitted that the petitioner was arrested in connection with Mawlai P.S. Case No. 67 (07) of 2025 under Section 5(l)(n)/6 POCSO Act read with Section 351(3) BNS and since the date he was arrested, that is, 01.07.2025, he was in custody for more than 1 year 3 months. In the meantime, the petitioner has also made two attempts at securing bail but the same proved futile since his prayer was rejected. This is the 3rd bail application moved with a prayer for grant of bail.

2. The learned counsel has also submitted that the allegations made in the FIR as well as the findings of the Investigating Officer (IO) that a prima facie case is found well established against the petitioner/accused requiring determination on merits, the trial at present is at the stage of evidence with 7 witnesses having been examined and discharged.

3. However, it is on the prayer made by the IO for running a DNA test, the result of which, has not yet been finalised for the same to be presented in court. As such, the trial has been stalled because of such prayer.

4. Under such circumstances, irrespective of the merits of the case, the learned counsel has submitted that for the prolong incarceration in custody the petitioner/accused person may be allowed to be enlarged on bail.

5. In support of his contention, the case of **Arvind Dham v. Directorate of Enforcement reported in (2026) 7 SCC 330**, para 15 which also finds place in an order passed by this Court in BA No. 79 of 2026 wherein vide order dated 15.10.2026 at para 4 of the same the observations made by the Supreme Court in the said para 15 has been recorded. This authority has also been relied by the learned counsel for the petitioner herein to say that prolong period of incarceration runs contrary to the provision of Article 21 of the Constitution of India qua the accused person.

6. It is, therefore, prayed that this petition may be allowed and the petitioner/accused may be granted bail with any conditions fit and proper to be imposed by this Court.

7. Mr. H. Kharmih, learned Addl. P.P while opposing the prayer made has submitted that a perusal of this petition, particularly the annexures to the same, wherein at page 23 is found copy of the statement made by the survivor under Section 183 BNSS which succinctly would show that the survivor had clearly indicated the petitioner/accused person of being the perpetrator who had sexually assaulted her on many occasions and more so, he is her stepfather and therefore is residing under the same roof. Under such circumstances, the learned Addl. P.P has submitted that the prayer made in this petition may not be allowed.

8. Mr. G. Syngkrem, learned Legal Aid Counsel appearing for the respondent/complainant has also endorsed the submission made by the learned Addl. P.P and has further submitted that the gravity and seriousness of the offence has to be taken into consideration, the fact being that the accused person in question is the stepfather of the survivor as such, no leniency should be given to him as far as the prayer is concerned. It is, therefore, prayed that this petition may be dismissed as devoid of merits.

9. This Court has considered the submission made and is also well aware that the prayer made in this petition rest on the premise of prolongation of trial as far as the accused person is concerned while he is still in custody. The authority cited, that is, the case of Arvind Dham (supra) would cement this contention that long period of incarceration would deprive the accused of his rights to speedy trial. However, given the fact that this proposition is valid and acceptable, nevertheless it is also equally important for this Court to look into the well settled principle and parameters set out as regard grant or non-grant of bail. One of the factors

to be considered as has been pointed out is the seriousness and gravity of the offence involved.

10. In this case, the fact that the accused person has not denied his status as the stepfather of the survivor and also the fact that at the time when the alleged offence was committed, they were staying in the same house, this, in the opinion of this Court would be a telling factor taking into consideration the trauma and the agony that the survivor would experience.

11. In this view of the matter, at this point of time, this Court is not inclined to allow the prayer made.

12. Petition dismissed as devoid of merits.

**Judge**

Meghalaya
26.10.2026
*"Tiprilynti–PS"*

Verified
Digitally signed by: TIPRILYNTI KHARKONGOR
Signed On: 26-10-2026 18:39:31 IST