Serial No. 03
Regular List

MLHC010017822026

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 88 of 2026

Date of Decision: 10.11.2026
Uploaded on: 12.11.2026

Smti. Debbie Vanlalluri
W/o Shri. Samuel Lalmuanpuia Pachuau
Permanent resident of M-II, RuamVeng, Chaltlang,
Aizawl Mizoram-796012

...Applicant

-Versus-

1. State of Meghalaya
   Through the Secretary,
   Home (Police) Department,
   Government of Meghalaya.
2. The Investigating Officer,
   Laitumkhrah Police Station, Shillong.
3. Miss X (Complainant in
   Laitumkhrah P.S. Case No. 100 (07) 2026
   under section 3, 4, 11 & 12 of POCSO Act)
   Through Officer-in-Charge,
   Laitumkhrah Police Station, Shillong

…Opposite Parties

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. K. Ch. Gautam, Adv.

For the Respondent(s) : Ms. O.A.I. Bang, GA (For R 1 & 2)
Mr. A. Dey, Legal Aid Counsel (For R 3)

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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 (ORAL):

1. This is an application for grant of bail made by the petitioner herein on behalf of her son, Shri. Jonathan Lalhmingthaa Pachuau who is an accused in connection with Special POCSO Case No. 104 of 2026 arising out of Laitumkhrah P.S. Case No. 100(07) of 2026 under Section 3, 4, 11 & 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012. It may be mentioned that this is a second bail application filed by the petitioner before this Court after the first application for grant of bail was rejected by the learned Trial Court.

2. Mr. K.Ch. Gautam, learned counsel for the petitioner has submitted that the accused person/son of the petitioner was arrested on 16.07.2026 after receiving of an FIR dated 13.07.2026, wherein it was alleged that the accused person/son of the petitioner had sexually assaulted the complainant in the month of June, 2024. The FIR was lodged after a period of 2 years from the date of the incident. As a matter of fact, this instant case came into light after the image of a youth went viral on various social media platforms, accompanied by posts alleging that he had sexually exploited several young women over a period of time and had intimidated some of them by threatening to release their private videos.

3. The instant FIR arises out of a newspaper public circulation dated 07.07.2026 (Annexure-III to the petition) wherein the Police while investigating the case, have asked the survivors to come forward and give their statements and to file an FIR. After filing of the FIR, the accused person was arrested without giving the right of being heard. In the chargesheet, except the statement of the survivor, there are no materials to substantiate the allegations made, there is no video recording and no Call Detail Records (CDR), submits the learned counsel.

4. It is the further submission of the learned counsel that the accused person herein is a 21 (twenty-one) years old student with no criminal

antecedents who is currently pursuing his studies and was barely 19 years old at the time of the alleged incident. Initially, the accused was falsely implicated in an earlier matter being Laitumkhrah P.S. Case No. 94(07) 2026 under Section 64(1) of the BNS, 2023, wherein the police did not arrest the accused, stating that he was co-operating with the investigation. The learned counsel has also submitted that the accused person has been charge sheeted under the provisions of the POCSO Act, 2012 and in case he is convicted, he will be serving a punishment of minimum 20 years of imprisonment, therefore the learned counsel prays for a fair chance to cross-examine the victim/survivor and make an effective defence.

5. The learned counsel in support of his contention has relied on the case of **Shri. Rahdor Thangkhiew v. State of Meghalaya**, in **BA No. 42 of 2025** wherein vide order dated 11.09.2025 this Court at para 12 of the same has held that the appellant therein is a young boy with no criminal antecedents or prior criminal record. Therefore, in view of the proposition of law laid down in the case of Sanjay Chandra v. Central Bureau of Investigation, (2021) 1 SCC 40, para 21 and 22 which is found relevant in the facts and circumstances of that case, the Court is of the opinion that the prayer made in the application be allowed. The relevant paragraphs of Sanjay Chandra case i.e., para 21 and 22 are also relied upon in the context of this case, submits the learned counsel.

6. Another case referred to by the learned counsel is the case of **Smti. Sheba Dhar v. State of Meghalaya** in **BA No. 7 of 2021** wherein vide order dated 20.09.2021 this Court at para 9, 10, 11 & 12 has held that the object of bail is to secure the attendance of the accused at the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that a bail could not be withheld as a punishment. The authority relied by this Court is again on the case of Sanjay Chandra (supra).

7. It is, therefore, prayed that this petition may be allowed and the prayer made for grant of bail be allowed with any conditions deemed fit and proper to be imposed.

8. Ms. O.A.I. Bang, learned GA appearing on behalf of the State respondents has strongly objected the prayer made in the bail application stating that there are serious allegations made out as regard the accused person/son of the petitioner. The survivor in the present case is a student studying in the same college as the accused and there are chances of him tampering with the evidence, that he may influence the witnesses and also threaten the survivor herein, thereby jeopardizing the fair trial of the case. It is further submitted that the survivor in the present case has stated that there is a video recording of the sexual assault that took place, by which the accused person has used as a leverage to intimidate the survivor, as such, she is prevented to file the FIR then.

9. The case of **Mayur Raju Wankhede v. State of Maharashtra & Anr., 2025 SCC OnLine Bom 2561**, para 15 & 20 was relied on by the learned GA in which it was has held that in cases involving sexual offences against minors, courts must exercise extreme caution while granting bail. The triple test for bail, that is, – (i) prima facie case, (ii) possibility of the accused fleeing from justice, and (iii) likelihood of the accused tampering with evidence or influencing witnesses – must be applied with special rigor in POCSO cases and that the fundamental right of liberty of the accused is not absolute and must be balanced against the larger interests of justice, public order, and the protection of victims, particularly when the victims are minors. Also, in the case of **X v. State of Uttar Pradesh & Anr., 2026 SCC OnLine SC 43**, para 12, 13, 14, 15 & 18 the Supreme Court has held that the Court is duty-bound to have due regard to the nature and gravity of the offence and the material collected during investigation. The omission to notice that the chargesheet has already been filed, coupled with the prima facie material emerging from the victim's

statements renders the exercise of discretion by the High Court manifestly erroneous.

10. Mr. A. Dey, learned Legal Aid Counsel appearing on behalf of the respondent No. 3 has strongly objected to the application herein and has submitted that the fact that the FIR was filed only two years after the accused had sexually assaulted the survivor is because of the threat by the accused person to expose the survivor since the act was recorded on his mobile phone. Therefore, the prayer made in this application may not be granted on the ground that if released on bail, there is a strong possibility that the accused person will intimidate or threaten the survivor.

11. The respective argument of the learned counsels has been taken into consideration by this Court. It is not necessary to reiterate that for an alleged offence under the POCSO Act, the accused person was arrested on 16.07.2026. In the intervening period, vide order dated 16.10.2026, he was granted interim bail by this Court, w.e.f. 25.10.2026 to 31.10.2026, to allow him to sit for his examination in the college he is studying in. Thereafter, on 31.10.2026, he has resumed his custodial detention on the expiry of the period of the said interim bail.

12. This fact of the matter has been projected by the learned counsel for the petitioner to lay emphasis that the accused person has not flouted or disregarded the orders and directions of this Court, hence his bonafide.

13. Another aspect put forward by the learned counsel to canvass the case on behalf of the accused person is the fact that he is a young person who is pursuing his studies and without being given a fair chance to contest the charge put forth in the chargesheet, his continued incarceration is a violation of his rights.

14. The ratio of the cases cited by the learned counsel wherein the courts have reiterated the application of the principle of bail and not jail as a component of the sacrosanct right to life and liberty of a citizen of this country,

deprivation of which is considered a punishment without reasons, would apply generally in cases where grant of bail is sought for, however, in the contra authority cited by the learned GA, that is, the case of X (supra), the Apex Court at para 12 of the same has emphasised on the fact that even though the chargesheet has been filed in a case, consideration of bail under such circumstances has to be made keeping in mind the nature and gravity of the offence and the materials collected during investigation.

15. It may be true that the object of bail is for securing the appearance of the accused person at his trial, not being punitive in nature, however for an offence under the POCSO Act, involving a survivor who is also of a tender age, it is imperative for the court to balance the right of the accused against the larger interest of justice, public order and the protection of victims, as has been observed by the Bombay High Court in the case of Mayur Raju Wankhede (supra).

16. It is also to be reminded that every case will have to be looked into taking its peculiar facts and circumstances into consideration when a prayer for grant of bail is made before the court. In this case, the fact that there is an allegation of intimidation by the accused person vis-à-vis the use of an alleged recording of the sexual act meant to coerce the survivor into submission, even if such allegation could not be substantiated, coupled with the fact that the accused and the survivor are studying in the same educational Institution, the possibility of fear on the part of the survivor cannot be ruled out.

17. Under such circumstances, at this point of time, this Court is convinced that no case for grant of bail is made out.

18. Accordingly, this petition is hereby dismissed as devoid of merits and is disposed of. No costs.

Judge

Meghalaya
10.11.2026
"Tiprilynti–PS"

Verified
Digitally signed by: TIPRILYNTI KHARKONGOR
Signed On: 12-11-2026 15:37:17 IST