



Serial No. 03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 28 of 2025

Date of Decision: 30.06.2025

Shri. Beringwell Kharkongor
Son of Smti. Neris Kharkongor
Aged about 46 years
Resident of Umlympung 12th Mile
Myllem, East Khasi Hills District,
Meghalaya.

..... **Petitioner**

- Vs-

1. State of Meghalaya,
Represented by its Secretary
Government of Meghalaya,
Shillong, East Khasi Hills District,
Meghalaya.
2. Superintendent of Police,
East Khasi Hills District,
Shillong, Meghalaya.
3. Officer-in-Charge,
Mawngap Police Station,
East Khasi Hills, Meghalaya.
4. Mr. X (Complainant)

..... **Respondents**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. H.R. Nath, Adv.



Ms. B. Sun, Adv.
 For the Respondent(s) : Mrs. N.G. Shylla, Sr. GA with
 Mr. J.N. Rynjah, GA. for R 1-3.
 Ms. R. Dutta, LAC for R 4.

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.R. Nath, learned counsel for the petitioner, who has submitted that on an FIR being lodged on 04.04.2025 before the Officer-in-Charge, Mawngap Police Station, wherein the allegation made therein is that the brother of the petitioner, who is an accused person herein, has committed aggravated sexual assault on his own biological daughter when she was about 10 years old or so, and again, when she had attained the age of 18 years or so, but for the fact that her conduct and demeanor is found strange by her family members, she on being persuaded, has revealed about such incident which happened to her.

2. The learned counsel has also submitted that the complainant being her paternal uncle has therefore lodged the said FIR being registered as Mawngap P.S. Case No. 14 (04) 2025 under Section 5(m)(n)/6 POCSO Act read with Section 75(2) BNS Act, and investigation being launched, the Investigating Officer has finally filed the charge sheet on 16.05.2025. The



competent court of jurisdiction i.e. the Court of the learned Special Judge (POCSO), East Khasi Hills District, Shillong had taken cognizance of the case and the matter is fixed for consideration of charges and argument before charge is allowed to be advanced by the parties therein, further submits the learned counsel.

3. The learned counsel, while pressing the prayer made for grant of bail on behalf of the accused person, has firstly submitted that a perusal of the FIR, would reveal that there are no specifics indicated therein such as the date of the alleged incident even of the later incident said to have happened when the victim was 18 years old or so. The allegation being vague, therefore, there is no substantial basis or prima facie evidence against the accused person to warrant his continued custody in prison where he is incarcerated till date for about two months, twenty-two days or so. The learned counsel would further submit that the investigation having been completed, therefore, the accused person may be allowed to be enlarged on bail with any conditions that this Court may deem fit and proper to impose.

4. Mrs. N.G. Shylla, learned Sr. GA assisted by Mr. J.N. Rynjah, learned GA for the State respondent Nos. 1-3 has strongly opposed the prayer made, and has submitted that prima facie, it is established that the accused had committed a very grave offence, particularly a case of sexual assault



against his own biological daughter. This has had a devastating effect on the victim, inasmuch as, her personality has been shattered and even the prospect of good future has been destroyed, inasmuch as, in the meantime, she had gotten married, but on coming to know of such incident in her life, her husband has deserted her, coupled with the fact that she is staying in the house of the accused person, who is her own biological father when the said incident came to be revealed to the complainant, who is her uncle. However, now at present, she is staying with the said uncle.

5. It is the further submission of the learned Sr. GA that at this point of time, because of the compelling circumstances involving the case of the accused and the victim, the prayer of the petitioner may not be allowed.

6. Ms. R. Dutta, learned Legal Aid Counsel appearing on behalf of the respondent No. 4/complainant has endorsed the submission made by the learned Sr. GA, and has submitted that on instruction, she is advised to oppose this application.

7. This Court has considered the case of the parties and has also perused the petition, the FIR as well as the statement of the complainant and the survivor. The statement of the victim/survivor is indicative of the incident that had occurred, and she has also in more or less great details narrated what had taken place in her life as far as the alleged action of the accused is



concerned.

8. The objection raised by the petitioner as regard the alleged FIR being vague in details, can only be raised at the time of trial since it is well settled that an FIR cannot be treated as an encyclopedia as regard the details made therein, and however sketchy the details will appear, if relevant information is gathered relating to any alleged offence being committed, and further upon the Investigating Officer taking up the matter for investigation and coming to a definite conclusion as has been done in this case, the contention of the learned counsel for the petitioner on this ground, cannot be sustained.

9. It is also well settled that bail is in the realm of discretion of the court, though a court of law is not to be moved by emotions or emotive arguments, the fact remains that it is incumbent upon the court to consider the matter in its proper prospective, particularly taking into account the nature and seriousness of the offence involved and whether such allegation would be against societal interest.

10. As to the allegation that it was the biological father who had committed such act upon his own daughter, relevant provisions of law would take care of such allegation. The only concerned of the court at this point of time, is the fact that the accused person being in custody for about two



months, twenty-two days or so, it would be too soon for the victim to recover from her trauma psychologically, if not physically. If the accused is allowed to roam freely on being enlarged on bail, that may have an effect on her response and reaction.

11. Under such compelling circumstances, at this point of time, this Court is not inclined to allow the prayer made by the petitioner. Accordingly, this petition is dismissed as devoid of merits and the same is disposed of.

Judge