



Serial No. 02
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 3 of 2026

Date of Decision: 19.03.2026

Shri. Khienkor War
S/o Smti. Aroma War
R/o Wahiajer Village,
West Jaintia Hills District,
Meghalaya.

Presently lodged at District
Prisons and Correctional Home,
Shillong, East Khasi Hills District,
Meghalaya.

..... **Petitioner**

- Vs -

1. The State of Meghalaya through the
Secretary, Home Police Department,
East Khasi Hills District,
Meghalaya.
2. Officer-in-Charge,
Nongstoin Police Station,
West Khasi Hills District,
Meghalaya.
3. Mr. X (Complainant)
Through the Officer-in-Charge,
Nongstoin Police Station,
West Khasi Hills District,
Meghalaya.

..... **Respondents**



Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)	:	Ms. P. Riahtam, Adv. Mr. R. Siangshai, Adv. Ms. E. Pajuh, Adv.
For the Respondent(s)	:	Mr. S. Sengupta, Addl. PP with Mr. K.P. Bhattacharjee, GA for R 1 & 2. Mr. K.S. Kharshiing, LAC/R 3.

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 Ms. P. Riahtam, learned counsel for the petitioner, who has submitted that the petitioner is presently in custody and lodged at the District Prisons and Correctional Home, Shillong in connection with Nongstoin P.S. Case No. 59 (9) 2025 under Section 5(k)(l)/6 POCSO Act, wherein, he was named as an accused, who has committed the offence of sexual assault on the minor sister of the complainant therein.

2. In the FIR dated 03.09.2025, it has been alleged that the accused person had sexually assaulted the minor sister of the complainant on 19.08.2025, the act was said to have been committed at the residence of the survivor herself.



3. The learned counsel has also submitted that, in the meantime, on investigation being conducted, the Investigating Officer having filed the Final Report, had opined that a prima facie case is found well-established against the accused/petitioner herein, and he is directed to stand trial before the competent court of jurisdiction.

4. Accordingly, the Court of the learned Special Judge (POCSO), Nongstoin, West Khasi Hills has taken cognizance of the case and charges have been framed against the accused person. The stage of the case is for recording of evidence, wherein the evidence of the survivor has since been recorded and was discharged on 10.03.2026.

5. The learned counsel has further submitted that a perusal of the materials on record including the statement of the survivor under Section 180 BNSS as well as her statement before the court are contradictory, and the accused could not have been said to have been committed the said act on 19.08.2025, since being an employee of the Airtel Company on that particular day he was on duty along with his driver and was not present at the alleged place of occurrence.

6. The learned counsel has however submitted that, since the trial is in session, the merits of the case of the parties would be challenged at the trial by the accused person in his defence. However, at this point of time, since he



has been in custody for more than 6(six) months, the investigation having been completed, therefore, there is no scope for the accused to tamper with the evidence or witnesses. Being a permanent resident of the State of Meghalaya, the learned counsel submits that he will not be a flight risk, if released on bail, and would abide by any conditions to be imposed by this Court as well as by the Trial Court. Under such circumstances, it is prayed that this petition may be allowed and the prayer made for grant of bail be passed accordingly.

7. The learned counsel has also referred to the case of Smti. Sheba Dhar v. State of Meghalaya, wherein vide order dated 20.09.2021 passed in BA. No. 7 of 2021, this Court having allowed the prayer for grant of bail made by the petitioner therein, had made certain observations as regard the principle of bail in criminal jurisprudence, the same being that, bail should be the rule and jail the exception. Reference is also made to the observation of this Court in the said case at para 11, where the case of Sanjay Chandra v. Central Bureau of Investigation reported in (2012) 1 SCC 40 was cited, para 21 and 22 being noted therein.

8. Mr. S. Sengupta, learned Addl. PP appearing for the State respondent has opposed the prayer made by the accused/petitioner on the ground that the survivor is a minor girl, and the fact that an allegation of sexual assault is made, is serious in nature, and accordingly, if the accused/petitioner



is enlarged on bail at this stage, there is every likelihood that the survivor would felt threatened.

9. It is also the submission of the learned Addl. PP that, since the stage of the case is for recording of evidence, the Trial Court may be called upon to proceed with the trial expeditiously. Therefore, the prayer for grant of bail is hereby opposed, reiterates the learned Addl. PP.

10. Mr. K.S. Kharshiing, learned Legal Aid Counsel appearing on behalf of the complainant/respondent No. 3 has also endorsed the submission made by the learned Addl. PP to the extent that grant of bail to the accused person at this stage will cause harm to the mentality of the survivor, who apparently has been diagnosed as suffering from Mild Intellectual Disability. As such, on knowing that the accused is at large, it would cause trauma to her psyche, and under such circumstances, it would not be proper for bail to be granted to the accused person at this stage.

11. This Court has considered the submission made by the learned counsels for the parties as far as the facts of the case are concerned, since prima facie, the investigation has confirmed that the accused/petitioner has indeed committed sexual assault upon the minor survivor, who is a minor of about 14 years old, therefore, the case has proceeded to the stage of framing of relevant charges against him, and that recording of the evidence of the



prosecution witnesses is ongoing. However, at this stage, this Court will not go into the merits of the case of the parties, since an observation made in this regard, may affect the rights of the parties at the trial. Be that as it may, what is apparent is that the accused/petitioner has been sent to judicial custody for the alleged offence committed by him.

12. Though the allegation is serious in nature, however, it is also to be taken into account the fact that an accused person facing trial in a court of law, particularly in criminal offence, is said to be innocent until proven guilty, which, if so, found guilty, would have to face the consequences of conviction and imprisonment.

13. In the meantime, it may not be necessary for any person or an accused person for that matter to be incarcerated in custody, provided the circumstances are such that, if allowed to be released from custody, he would flee from justice or threaten the witnesses or tamper with the evidence. However, if such an accused person can assure the court or provide sufficient surety, this aspect of the matter can be taken care of in this respect.

14. Accordingly, at this point of time, this Court is of the view that the accused person/petitioner is to be allowed to present his defence before the Trial Court in a free and fair atmosphere. Needless to say, even, if he is enlarged on bail, stringent conditions will be imposed to ensure that he



functions within the parameters of law. Accordingly, the prayer made in this petition is hereby allowed.

15. The petitioner/accused 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 at any point of time, except, if so directed by 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.

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

Judge