



Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA. No. 58 of 2025

Date of Decision: 09.02.2026

Smti. Dis Chyrmang,
W/o (L) T. Ryngkhlem,
R/o Myrjai village,
West Jaintia Hills District, Meghalaya

..... Applicant

- Vs-

State of Meghalaya, represented by the
Public Prosecutor.

..... Respondent

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Deb, Adv.

For the Respondent(s) : Mr. R. Gurung, GA.
Mr. S.A. Sheikh, GA.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT AND ORDER

1. This is an application for grant of bail made out under Section



483, BNSS read with Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 with a prayer for grant of bail to Shri Lovely Chyrmang who was convicted in connection with Special (POCSO) Case No. 34 of 2020.

2. Heard Mr. S. Deb, learned counsel for the applicant, who has submitted that the son of the applicant, on being convicted by the learned Special (POCSO) Judge in the said POCSO case vide judgment and order dated 20.09.2024 and made to undergo imprisonment for a period of 25(twenty-five) years with fine, had preferred an appeal before this Court registered as Crl. A. No. 55 of 2024.

3. However, while the appeal is still pending, the appellant/convict has raised the issue of juvenility and has sought for age determination by way of an appropriate application. This Court vide order dated 02.04.2025 then referred the matter to the learned Trial Court for the purpose of such age determination. The proceedings before the Trial Court for determination of the age of the appellant/convict at the relevant period, that is, when the said offence was said to have been committed is still pending at the stage of recording of evidence.

4. In such a situation, the applicant has approached the Trial Court with an application for grant of bail which was rejected vide order dated



01.12.2025 and has then directed that he be placed in the Place of Safety (Boys) at Mawkasiang, Shillong during the pendency of age determination.

5. The learned counsel has submitted that the case of the applicant is that the said convict Shri Lovely Chyrmang who is her son has taken recourse to the provisions of the Juvenile Justice Act and the relevant provisions thereof, seeking for determination of age, and as such, once such plea is raised, the approach to the issue must remain child-centric and reform-oriented.

6. It is also submitted that the statutory framework and judicial interpretation in this regard makes it clear that a person claiming juvenility should not be subjected to ordinary jail custody pending inquiry. Therefore, as provided under Section 12 of the said JJ Act, bail to a child in conflict with law is the statutory rule irrespective of the nature of the offence and bail can only be denied on certain grounds, such as the danger to the child to come into association with known criminals or the exposure of the child to moral, physical or psychological danger, if release on bail.

7. In this context, coming to the case of the son of the applicant herein, the learned counsel has submitted that in view of the fact that the inquiry as regard age determination is still pending before the Trial Court at the stage of recording of evidence, until such time a decision is arrived at by



the learned Trial Court, the appellant/convict may be allowed to be released on bail with any conditions as deemed fit and proper to be imposed by this Court.

8. In support of his contention, the learned counsel has cited the following authorities:

- i. *Hari Ram vs State of Rajasthan and Anr. (2009) 13 SCC 211, para 16 – 38;*
- ii. *Rishipal Singh Solanki vs. State of Uttar Pradesh and Ors. (2022) 8 SCC 602, para 58, 59 and 60;*
- iii. *Abuzar Hossain vs State of West Bengal (2012) 10 SCC 489, para 27, 38, and 39.1- 39.5;*
- iv. *Lakhan Lal vs State of Bihar (2011) 2 SCC 251, para 10, 17, 18, 19, 20, 21 and 22;*
- v. *Pratap Singh vs. State of Jharkhand (2005) 3 SCC 551, para 10, 12, 23, 37 and*
- vi. *Jarnail Singh vs. State of Haryana (2013) 7 SCC 263, para 21, 22 and 23.*

9. Mr. R. Gurung, learned GA appearing for the State respondent, while opposing the prayer made by the applicant/convict on behalf of the



State respondent, has agreed with the contention of the learned counsel for the applicant that under Section 12 of the JJ Act, bail for child in conflict with law is generally a mandatory right regardless of the gravity of the offence. However, such bail can be denied if there are reasonable grounds to believe that the released of such a child would defeat the ‘ends of justice’.

10. Further, elaborating on this aspect the learned GA has submitted that, if a juvenile exhibits a criminal proclivity or clear pattern of repeating heinous offence, that is, the conduct of the child in conflict with law exposing such trait, which is apparent in the case of the son of the applicant herein, who when he was released on bail on an earlier occasion, had misused his liberty by committing sexual assault on the very survivor for the second time for which a separate criminal proceeding was initiated against him being Special POSCO Case No. 10 of 2018 and is still pending final adjudication.

11. It is also the contention of the learned GA that the convict herein cannot be prematurely treated as a juvenile pending the determination of his age by the Trial Court, for which, for all intent and purposes, he is to be considered an adult, as such, considering the seriousness of the offence committed by him for which he was convicted under Section 6 of the POCSO Act, the prayer made for his released on bail at this point of time cannot be considered.



12. In support of his contention the learned GA has referred to his following authorities:

- i. Raju @ Ashish vs State of Uttar Pradesh and Anr., 2018 SCC Online All 3100, para 10, 11 and 12;*
- ii. Vikas vs State of Madhya Pradesh, 2020 SCC Online MP 4603, para 6; and*
- iii. Sandeep Singh Alias Seepa vs State of Haryana and Anr., in CRR-2259-2024, decided on 13.01.2026, para 16, 19, 26 and 27.*

13. This Court has considered the submission and contentions raised by the parties. What could be understood is that on the strength of the order dated 02.04.2025 passed in CrI. A. No. 55 of 2024, the learned Trial Court was directed to cause inquiry in accordance with law so as to determine the age of the son of the applicant herein at the relevant point of time.

14. In the meantime, in course of the said proceedings before the Trial Court, the applicant herein had preferred an application for grant of bail on behalf of the convict Shri. Lovely Chyrmang and the learned Trial Court has, vide order dated 01.12.2025 rejected the said application holding that under the peculiar facts and circumstances of the case of the convict who was convicted under the relevant provision of the POCSO Act for the offence



of aggravated sexual assault upon a minor, his denial of bail would be covered by the exception clause found in Section 12 of the JJ Act where bail may be denied to the child in conflict with law, if his release would lead to defeat the ‘ends of justice’.

15. The learned counsel for the applicant while referring to the authorities cited herein has sought to reinforce the fact that the objective of the Juvenile Justice Law is reformatory in character and must remain child-centric and reform-oriented and also that the claim of juvenility can be raised at any point of time before the competent court of jurisdiction, for which the court is bound to take cognizance of such plea and to proceed accordingly. The case of **Rishipal Singh Solanki** (supra) as well as the case of **Abuzar Hossain** (supra) has been cited in this respect. There is no quarrel with this proposition and the same is well settled. It is also noticed that there is no violation of this principle in the proceedings before this Court or even before the Trial Court as far as the application of this principle is concerned.

16. The main thrust of the applicant’s contention is that since the provision of Section 12 of the JJ Act provides that bail to a child in conflict with law must be allowed irrespective of the nature of the offence, therefore, in the case of the convict in question, pending final determination of his age, it would be, but proper, for this provision to be applied in his case which was



not done so by the learned Trial Court.

17. In response to the contention of the prosecution that bail could not be granted to the convict since his conduct while he was on bail, previously, he has misused his liberty by committing the same offence of sexual assault on the very same survivor, the applicant has maintained the allegation is still under scrutiny before the Trial Court and is yet to be proven, and that the registration of another case is not prove of guilt, more so, the cardinal principle of criminal jurisprudences is the presumption of innocence until proven guilty would apply to the case of the convict as far as the issue of bail is concerned. Therefore, this should not be a ground for consideration when the question of grant of bail to the convict is taken up.

18. On the otherhand, the authorities cited by the learned GA deals with the concept of '*would defeat the ends of justice*' wherein a distinction has been made between the norm for grant of bail under Section 12 of the JJ Act and the exception to the same, being denial of such bail, based on certain factors, the nature and gravity of the offence being considered relevant.

19. In this regard the authority cited by the learned GA being the case of **Raju @ Ashish** (supra) found at para 10 is considered relevant by this Court in the given context. Excerpt of the observation made therein is reproduced herein as:



“10. The issue whether bail can be denied to a juvenile going by the gravity of the offence, the nature of the crime, and, so to speak, by considering the merits of the prosecution case, looking to the last clause of the exceptions to the Rule in Section 12(1) of the Act which speaks about denial of bail on ground that release would defeat the ends of justice.... 30. Thus, it is no ultimate rule that a juvenile below the age of 16 years has to be granted bail and can be denied the privilege only on the first two of the grounds mentioned in the proviso, that is to say. likelihood of the juvenile on release being likely to be brought in association with any known criminal or in consequence of being released exposure of the juvenile to moral, physical or psychological danger. It can be equally refused on the ground that releasing a Juvenile, that includes a juvenile below 16 years would "defeat the ends of justice. In the opinion of this Court the words "defeat the ends of justice employed in the proviso to Section 12 of the Act postulate as one of the relevant considerations, the nature and gravity of the offence though not the only consideration in applying the aforesaid part of the disentitling legislative edict. Other factors such as the specific need for supervision or intervention, circumstances as brought out in the social investigation report and past conduct of the child would also be relevant that are spoken of under Section 18 of the Act.”

20. As has been pointed out, the conduct of the convict while on previous bail, even, if not yet proved, however, prima facie, evident that he has dealt a second similar blow to the survivor, would leave no doubt to this Court that this act would not inspire confidence for his release on bail at this point of time irrespective of the fact that the issue of age determination is under consideration.

21. Indeed, if the convict/son of the applicant is released on bail at this stage, it would justify the term '*defeat the ends of justice*'. Accordingly on an overall consideration of the facts and circumstances of this case, this



Court is not inclined to allow the prayer made in this application. The same is hereby rejected.

22. Application disposed of. No costs.

Judge