



Serial No. 03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

AB No. 22 of 2025

Date of Decision: 25.03.2026

Shri. Ha Doji
S/o Shri. Ha Tato
Permanent resident of Ganga market,
Itanagar, Arunachal Pradesh
Presently a student of Law College
Shillong, Dhankheti, East Khasi Hills, Meghalaya

..... **Petitioner**

- Vs-

1. State of Meghalaya
Through the Secretary Home Police Department,
East Khasi Hills District, Meghalaya.
2. Officer-in-Charge,
Laban Police Station,
East Khasi Hills District,
Meghalaya.
3. Smti. X (Complainant)
Through the Officer-in-Charge,
Laban Police Station,
East Khasi Hills District,
Meghalaya.

..... **Respondents**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge



Appearance:

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

For the Respondent(s) : Mr. H. Abraham, GA

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. When this matter was called up, Mr. H. Abraham, learned GA has submitted that, the complainant/victim has been informed that she can appear before this Court either by engaging a private counsel or by resorting to legal aid. However, even when contacted on two occasions, she has failed to avail any of the options given to her.

2. In such circumstances, this Court would deem it fit to say that the complainant is not agreeable to appear before this Court. Be that as it may, it would be incumbent upon the State respondent to present the case of the persecution herein.

3. Heard Mr. K. Ch. Gautam, learned counsel for the petitioner, who has submitted that this is a case where a celebration had taken place, the complainant, as well as the petitioner and others being present at such celebratory event on 19th November, 2025 at the Arunachal Boys Hostel, Shillong.



4. According to the complainant, in course of such celebration, strong drinks was consumed, as a result of which, she became drunk and had retreated to a room to sleep there. Admittedly, the room was dark and in course of the night, she was sexually assaulted, this was known to her only when she woke up in the morning. However, she could identify the perpetrator from the sound of his voice, after which she has lodged the said FIR.

5. It is the further submission of the learned counsel that the petitioner herein was impleaded in the said case, and being apprehensive of an imminent arrest has accordingly approached the Trial Court with a prayer for grant of anticipatory bail which was rejected vide order dated 8th December, 2025. Thereafter, he is now come before this Court with this instant application making a prayer for grant of anticipatory bail.

6. The learned counsel has also submitted that the petitioner is a law student and is not involved in the alleged sexual assault on the said victim, and, if arrested, his reputation and career will be at stake.

7. It is also the submission of the learned counsel that, in the meantime, the chargesheet has been filed by the Investigating (I/O), wherein, it was said that there is found prima facie evidence against the petitioner linking his involvement to the said assault.

8. Even so, filing of the chargesheet would not be an impediment for grant of anticipatory bail, submits the learned counsel and, in this regard, the case of Bharat Chaudhary and Anr v. State of Bihar reported in (2003) 8 Supreme Court Cases 77, at Para 7 has been referred to, wherein, the Hon'ble Supreme Court has observed as follows:



“7. From the perusal of this part of Section 438 of CrPC, we find no restriction in regard to exercise of this power in a suitable case either by the Court of Session, High Court or this Court even when cognizance is taken or a charge-sheet is filed. The object of Section 438 is to prevent undue harassment of the accused persons by pre-trial arrest and detention. The fact, that a court has either taken cognizance of the complaint or the investigating agency has filed a charge-sheet, would not by itself, in our opinion, prevent the courts concerned from granting anticipatory bail in appropriate cases. The gravity of the offence is an important factor to be taken into consideration while granting such anticipatory bail so also the need for custodial interrogation, but these are only factors that must be borne in mind by the courts concerned while entertaining a petition for grant of anticipatory bail and the fact of taking cognizance or filing of a charge-sheet cannot by itself be construed as a prohibition against the grant of anticipatory bail. In our opinion, the courts i.e. the Court of Session, High Court or this Court has the necessary power vested in them to grant anticipatory bail in non-bailable offences under Section 438 of CrPC even when cognizance is taken or a charge-sheet is filed provided the facts of the case require the court to do so.”

9. In view of the observation made by the Hon’ble Supreme Court, it is prayed that this petition may be allowed and the petitioner may be granted anticipatory bail with any conditions imposed by this Court, to which he will abide and comply with.

10. Mr. H. Abraham, learned GA has opposed the prayer and submission made on behalf of the petitioner on the ground that, there is clear evidence of the involvement of the petitioner herein as far as the complaint of the victim is concerned, and even in his statement before the I/O, the petitioner has admitted to have had sexual intercourse with the victim, though he would say that such act was one of consent, which contention was denied by the



victim. Under such circumstances, it is prayed that this petition may not be allowed.

11. This Court, on consideration of the submission of the parties, at this point of time, without going into the merits of the case of the prosecution, inasmuch as, since the chargesheet has been filed, evidence has been gathered and the same to be placed before the Trial Court for consideration, as has been submitted by the learned GA, another set of chargesheet to be filed, therefore, it can be assumed that the stage of investigation is complete.

12. Though the allegation is serious in nature, however, it would be incumbent upon the prosecution to make out a case against the petitioner, for which he should face his trial with proper defence, as such, in view of the observations made by the Hon'ble Supreme Court in the said case of Bharat Chaudhary (supra), this Court is inclined to allow this petition.

13. In the event of his arrest, the petitioner 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 victim 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.

14. Petition is disposed of.

Judge

Meghalaya
25.03.2026
"Khrav"