
(2025) 12 MEG CK 0020

Meghalaya HC

Case No: Bail Application No. 52 Of 2025

Rabbi Ali

APPELLANT

Vs

State Of Meghalaya & Ors

RESPONDENT

Date of Decision: Dec. 5, 2025

Acts Referred:

- Protection Of Children From Sexual Offences (POCSO) Act, 2012 - Section 3, 4, 13, 14, 29, 35

Hon'ble Judges: W. Diengdoh, J

Bench: Single Bench

Advocate: S. Thapa, S. Khatun, S. Khyriem, J. Thabab, A. Khan

Final Decision: Disposed Of

Judgement

W. Diengdoh, J

1. Heard Mr. S. Thapa, learned counsel for the petitioner, who has submitted that the petitioner is an accused, who was arrested on 25.12.2024 in connection with Laitumkhrah P.S. Case No. 233 of 2024 under Section 3/4/13/14 of the POCSO Act, and is still in custody for about 11 months or so, has now approached this Court with this instant application with a prayer for grant of bail.

2. It is also the submission of the learned counsel that the petitioner/accused had earlier approached the Trial Court for grant of bail which was rejected.

3. The brief facts of the case according to the petitioner/accused is that he was in a relationship with the survivor, and admittedly, they had involved themselves in a physical and sexual relationship which was discovered by the mother of the survivor, who has accordingly lodged an FIR on 25.12.2024 before the Officer-in-Charge, Laitumkhrah Police Station.

4. The learned counsel has also submitted that on being arrested by the police, the investigation was carried out by the Investigating Officer, who had, in the meantime, filed the charge sheet, finding a prima facie case well-established against the petitioner/accused, and the matter is now

pending for trial before the learned Special Judge (POCSO), East Khasi Hills District, Shillong.

5. The main ground set forth by the petitioner/accused for the prayer so made is that, firstly, he was in a love relationship with the survivor which was testified by her even in her statement before the police as well as before the Magistrate. Secondly, the fact that the accused person has also questioned the age of the survivor, for which the process of determination of age is still lying with the Trial Court, therefore, at this point of time, there can be a presumption that the age of the survivor is above 18 years. Thirdly, the fact that the petitioner/accused is in custody for the last 11 months or so, and trial is not likely to be concluded since the charges has not yet been confirmed as well as the evidence of witnesses have not yet been recorded. Therefore, on the ground of prolonged delay in the trial, the prayer of the petitioner/accused for grant of bail may be allowed, and necessary orders may be passed by this Court, submits the learned counsel.

6. Per contra, Mr. J. Thabah, learned GA appearing on behalf of the State respondent Nos. 1-3, has strongly opposed the prayer made in this application on the ground that the conduct of the petitioner/accused in the whole episode, would show that, if granted bail, there is every possibility that he will threaten the survivor and her family members, and that, he will also tamper with the evidence and witnesses.

7. The learned GA submits that, firstly, the fact that it is on record that, at one point of time, when the petitioner/accused was engaged in a sexual relationship with the survivor, he had videorecorded the act, and had also threatened the mother of the survivor that he will expose the same, which, if carried out, would bring disrepute and destroy the reputation of the survivor and her family.

8. Secondly, the fact that the offence alleged committed by the petitioner/accused is that of penetrative sexual assault, therefore, the gravity of the offence being serious in nature, his prayer for grant of bail on this ground too, may not be allowed.

9. Finally, the learned GA has submitted that the petitioner/accused is not a permanent resident of the State of Meghalaya. Being a resident of Assam, there is every possibility that he will be a flight risk, and as such, for the reasons cited above, the prayer made by the petitioner/accused may not be allowed.

10. Mr. A. Khan, learned Legal Aid Counsel appearing for the complainant mother has submitted that he is under instruction to oppose the grant of bail to the petitioner/accused on the ground that the petitioner/accused had threatened the mother of the survivor, and also the fact that he is not a resident of the State of Meghalaya, therefore, the possibility of his absconding is very imminent. On the other grounds, the learned Legal Aid Counsel has endorsed the submission made by the learned GA.

11. In reply, the learned counsel for the petitioner/accused has submitted that, as far as the issue of threatening the witnesses is concerned, this would not be a ground of denial of bail, and in this respect, the case of *Zahur Haider Zaidi v. Central Bureau of Investigation* reported in (2019) 20 SCC 404 at para 3 and 4 has been referred to, wherein the Supreme Court had observed that the

apprehension of intimidation and influencing witnesses would not be a ground for denial of bail.

12. As far as the apprehension that the petitioner/accused would abscond, the learned counsel has submitted that this is not the case, as the petitioner/accused had given his permanent address to the police, and furthermore, if this is the ground for denial of bail on account of the petitioner/accused, not being a resident of the State in question, then there is always the fear that no person, who is residing outside the State, would be granted bail in that particular State. The learned counsel has reiterated that the petitioner/accused, if enlarged on bail, would abide by any conditions to be imposed by this Court.

13. This Court has given due consideration to the submission made, the fact that the matter is pending before the Trial Court at the stage of recording of evidence which has not yet commenced, would confirm that the trial has actually not yet commenced in its true sense, and recording of evidence, would perhaps take some time.

14. The objection raised by the learned GA and the learned Legal Aid Counsel on the merits of the case, such as, the fact that the petitioner/accused had threatened the mother of the survivor, or that he has threatened to circulate the videorecording, wherein, he has recorded the act between him and the survivor, are matters of evidence, which has to be tested at the trial.

15. Though the learned GA has pointed that under Section 29 POCSO Act, there is presumption of guilt as far as the action of the accused/petitioner is concerned. This too, according to the opinion of this Court, would have to be borne out by adequate evidence in course of trial. The Court would however agree with the learned counsel for the accused/petitioner that the accused/petitioner has been in custody for quite some time about 11 months or so, and the trial has not yet proceeded sufficiently.

16. It may not be out of place to refer to Section 35 of the POCSO Act, which provides that trial under the POCSO Act, more often than not, has to be completed within a period of 1(one) year from the date of taking cognizance of the offence. The same is not likely in this present case.

17. Accordingly, on the facts and circumstances of this case, this Court is inclined to allow the prayer made by the petitioner/accused. It is therefore directed that he has to be released on bail forthwith 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 India, except with due permission of the court concerned; and

iv) That he shall bind himself on a personal bond of ■ 50,000/-(Rupees fifty thousand) with one surety of like amount to the satisfaction of the Trial Court.

18. In view of the above noted observations, this petition is accordingly disposed of. No costs.