



Serial No. 04 & 05
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 45 of 2026 with
BA No. 46 of 2026

Date of Decision: 30.07.2026

BA No. 45 of 2026

Aboni Basumatari, 30 Years,
 Son of Shri Anil Basumatari,
 Permanent Resident of Ushapur,
 Ushagaon, P.S- Joypur, P.O- Ushapur,
 District- Dibrugarh, Pin-786614, Assam.
 The present is at Nongmensong, Lankyrding,
 Shillong, in the district of East Khasi Hills, Meghalaya

.....Petitioner No.1

- Vs-

1. State of Meghalaya,
 Represented by Public Prosecutor.
2. Office In-Charge,
 Rynjah Police Station, Rynjah,
 East Khasi Hills District, Meghalaya
3. XXX
 Through Officier-In-charge
 Rynjah Police station.
 East Khasi Hills District, Shillong, Meghalaya.
 Permanent resident of Nongtalang Village,
 West Jaintia Hills District, Meghalaya.

..... Respondents

BA No. 46 of 2026

Shri Kamal Thapa, 38 years,
 Son of Shri Mohan Bahadur,
 Resident of New Sheetla Colony,
 Baarha Beegha Road, Sikandar Kampoo,
 Lashkar, Gird, P.O. Lashkar,



District Gwalior, Madhya Pradesh 474001.
Present place of residence is at Nongmensong,
Lankyrding, Shillong, in the district of East Khasi Hills, Meghalaya.

.....Petitioner No.2

- Vs-

1. State of Meghalaya,
Represented by Public Prosecutor.
2. Office In-Charge,
Rynjah Police Station, Rynjah,
East Khasi Hills District, Meghalaya
3. XXX
Through Officier-In-charge
Rynjah Police station.
East Khasi Hills District, Shillong, Meghalaya.
Permanent resident of Nongtalang Village,
West Jaintia Hills District, Meghalaya.

..... Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge.

Appearance:

For the Petitioner/Appellant(s)	:	Mrs. B.S. Goyal, Adv. Mr. A. J. Hazarika, Adv.
For the Respondent(s)	:	Mr. N.D. Chullai, AAG with Mr. E. R. Chyne, GA. for R 1 & 2. Ms. P. Chettri, Legal Aid Counsel for R 3.

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| 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. These two bail applications arose from a common case and with



identical facts and circumstances, as such, it is deemed proper and convenient to pass a common judgment and order, which is done so herein.

2. From the records, it is seen that an FIR was lodged before the Officer In-charge, Nongmynsong Police Outpost Shillong on 24.02.2026, from the said FIR, it can be seen that the complainant has made an allegation involving sexual assault perpetrated by two teachers of BDW International School, Langkyrding, Shillong. The victim of such sexual assault is her son, aged about 5 years 8 months, who is studying in class K-1 of the said school. When she noticed the strange behavior of her son, he narrated whatever has happened to him in the school, where two teachers later identified as Dance teacher and Sports teacher had committed the sexual assault, that is, penetrative sexual acts/assault in the private part and inappropriate touching of private parts on four occasions. The incident allegedly took place inside the school premises in the washroom/toilet of the school.

3. On receipt of the said FIR, the police have registered the case as Rynjah PS Case No. 47(2) 2026 under Section 6 and 10 of the POCSO Act. On investigation launched, the police have arrested the petitioners herein on 25.02.2026. Again, after completion of the investigation, the charge sheet was filed on 24.04.2026, with the Investigating Officer (I/O) finding well established prima facie case under Section 9(f)(l)(m)/10 of the POCSO Act, against the accused/petitioners herein and they were made to stand trial before the



competent court of jurisdiction. It has been averred in this petition at para 32 that the trial is yet to commence, that is, the evidence of the survivor is yet to be recorded.

4. Heard Ms. B.S. Goyal, learned counsel for the petitioners, who has submitted that the allegations and the contents and findings of the investigation as seen from the charge sheet have not revealed the actual and factual situation of the case inasmuch as the offence said to have been committed by the petitioners was committed within the school premises which is said to be under CCTV surveillance, in fact it has been stated that there are about 250 CCTV's installed in the school, the auditorium area also being covered by such CCTV's. As to the allegations that the child was sexually assaulted in the washroom, the learned counsel has submitted that this cannot be true since any child who needed to use the washroom will be mandatorily accompanied by the lady caretaker and no teacher or staff member are allowed to accompanied the child to the washroom area.

5. The petitioner No. 2 (Kamal Thapa) being the dance teacher he was engaged in dance practice in the auditorium from 09:00 am to 9:30 pm, as such, from 12.02.2026 to 19.02.2026, therefore he could not have committed the offence as alleged.

6. The fact that the said CCTV's or CCTV footage has not been seized by the I/O, since no such seizure was disclosed in the charge sheet, there is no



evidence to prove that the petitioners have committed the said offence, since CCTV's footage would have revealed the commission of such act if at all.

7. The learned counsel has also referred to the statement of the survivor under Section 180 BNSS and has particularly pointed out that medical report would show that there was no sign of use of force and no sign of anal penetration. It is further submitted that from the statement of some of the victims that they have not seen any sign of strange behavior as far as the survivor is concerned.

8. As to the petitioner No. 1 (Aboni Basumatari), the learned counsel has submitted that he is a Sports' teacher and on 13.02.2026 his duty was from 09:30 am to 10:10 am in the sports ground as such, unless there is clear evidence of his involvement the same being confirmed by the CCTV's footage, in the absence of such footage it cannot be said that the petitioner No. 1 has committed the said offence. Though, the learned counsel has candidly admitted that within the 40 minutes' period he may or could have committed the offence, but for the lack of evidence.

9. It is also the submission of the learned counsel that petitioner No. 2 during the period of his custody, he was granted interim bail by the learned Trial Court on the ground that he is to attend the funeral ceremony of his grandmother. In compliance to the said interim bail the petitioner No. 2 has proceeded for the said ceremony and after the same is completed he reported back to custody well before the expiry of the period granted to him. This will only demonstrate the



sincerity of the accused/petitioner No. 2 and as such, if granted bail there is no fear that he will abscond or tamper with the evidence.

10. However, the learned counsel has submitted that though the merits of the case would not be gone into at this stage, what is pertinent is the fact that the petitioners' having been in custody for about 166 days or so, the trial not proceeding speedily, the accused persons are therefore entitled to be enlarged on bail.

11. The learned counsel has also referred to the case of **Dataram Singh v. State of Uttar Pradesh and Anr., (2018) 3 SCC 22**, wherein at para 5 the Supreme Court has recalled what was decided in a number of cases as far as the issue of bail is concerned to observed that “...*grant of bail is the rule and refusal is the exception...*”. In this regard, the case of **State of Uttar Pradesh v. Anurudh and Anr., reported in 2026 SCC OnLine SC 40**, was also cited by the learned counsel. Laying emphasis on certain paras in the said judgment, being paras 9.1, 13 and 15.

12. It is, therefore, prayed that bail may be granted with any condition that this Court may impose.

13. Per contra, Mr. N.D. Chullai, learned AAG assisted by Mr. E.R. Chyne, learned GA appearing for the State respondent Nos. 1 & 2 has opposed the prayer made by the learned counsel for the petitioners and has submitted that from the materials on record including the FIR it has been clearly established



that there is prima facie evidence against the accused/petitioners herein.

14. The learned AAG has also referred to the statement of the victim recorded under Section 183 BNSS found at page 71 of this petition, wherein in the statement the victim/survivor has clearly related what has been perpetrated on him by demonstrating how the act of sexual assault was committed, he has also referred to the petitioner as afternoon sir, one wearing blue and black, he has also stated that the said teacher had touched him four times.

15. The learned AAG has again submitted that since the charge sheet has been filed pointing to the prima facie guilt of the accused/petitioners, the stage of the case is fixed for consideration of charges, therefore it would be but prudent for this Court to allow the evidence of the survivor to be recorded and thereafter for the issue of bail to be taken up. In this regard, the case of **Shri. Thosterning Lyngdoh Nonglait v. State of Meghalaya, BA No. 7 of 2024**, was referred to, wherein at para 11 of the same, this Court in a bail application relating to a case under the POCSO Act has observed as follows:

“11... However, while rejecting this application, this Court, would direct the Trial Court to immediately frame the charges and to examine the survivor at the earliest within a period of 3(three) weeks from today. After the deposition of the survivor is recorded, the petitioner/accused is at liberty to approach the Trial Court or this Court for fresh consideration of the prayer for bail.”

16. Another case cited by the learned AAG is the case of **Nihar Ranjitbhai Barad v. State of Gujarat**, wherein vide order dated 30.11.2022 in



R/Criminal Misc. Application No. 18985 of 2022, also dealing with an application of bail under the POCSO Act, the High Court of Gujarat at para 9 and also at para 10 has observed as follows:

“9. Keeping in mind the aforesaid objects and to achieve what has been provided under Articles 15 and 39 of the Constitution to protect children from the offences of sexual assault, sexual harassment, the POCSO Act, 2012 has been enacted. Any act of sexual assault or sexual harassment to the children should be viewed very seriously and all such offences of sexual assault, sexual harassment on the children have to be dealt with in a stringent manner and no leniency should be shown to a person who has committed the offence under the POCSO Act.

10.... The exploitation of children in such a manner is a crime against humanity and the society. Therefore, the children and more particularly the girl child deserve full protection and need greater care and protection whether in the urban or rural areas....”

17. It is, therefore, prayed that this application for bail is devoid of merits and the same is liable to be dismissed.

18. Ms. P. Chettri, learned Legal Aid Counsel appearing for respondent No. 3/complainant, has submitted that the complainant is the mother of the survivor and in her statement made before the police as well as before the Magistrate has stated the sequence of events of what had taken place as far as her son's is concerned, inasmuch as, when on 18.02.2026 he complaint of leg pain, after coming from school, the complainant noticed that he felt tired when he was at home, and it was only on 22.02.2026 that he narrated to her that he was sexually abused by his teachers in his school toilet on four occasions, he



referred to the said teachers as afternoon sir blue and black, on the complainant showing him the photographs her son (survivor) pointed to the picture of the petitioners herein. As a result of the said sexual assault, the survivor is traumatized and this has affected even this his studies, therefore, it is the prayer of the learned Legal Aid Counsel that the prayer made in this application may not be allowed.

19. This Court having heard learned counsel for the parties, the fact of the case are not required to be repeated, what is apparent is that the petitioners having been implicated in the case under the POCSO Act for the alleged commission of sexual assault on the minor son aged about 5 years or so of the respondent No. 3/complainant, the charge sheet also being filed with the observation of the I/O that the prima facie case under the relevant provision of the POCSO Act is found well established against the said accused petitioners, they have not approach this Court by way of this application seeking grant of bail.

20. This Court having considered the submission and contention of the parties herein and on perusal of the petition and the annexures thereto, is also of the view that on an appreciation of the statement of the survivor, a prima facie case of sexual assault said to have been committed by the accused/petitioners herein have been made out.

21. In this context, the judgment cited by the learned AAG that is, the



case of Nihar Ranjitbhai Barad (supra) is found relevant, where at para 12 of the same the case of “*the State of Kerala v. Mahesh*, para 17 was quoted, the same being reproduced herein below as:

*“12. It is also beneficial to refer to judgment of the Hon'ble Supreme Court in case of **The State of Kerala vs. Mahesh**, wherein the Hon'ble Supreme Court in para No.17 has observed as under:*

*17. In **Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496**, the Supreme Court laid down the parameters for granting or refusing the grant of bail which are as under:*

- i. whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
- ii. nature and gravity of the accusation;*
- iii. severity of the punishment in the event of conviction;*
- iv. Danger of the accused absconding or fleeing, if released on bail; v. character, behavior, means, position and standing of the accused;*
- vi. Likelihood of the offence being repeated; vii. Reasonable apprehension of the witnesses being influenced; and*
- viii. Danger, of course, of justice being thwarted by grant of bail.”*

22. Again, as has been observed by the High Court of Gujarat in the case of Nihar Ranjitbhai Barad (supra) any act of sexual assault or sexual harassment to children should be viewed seriously. Taking into account the innocence of such children who are not capable of understanding what is happening to them and also the resultant effect of the trauma that follows such a vile act. If proven



to be true as far as this instant case is concerned, no leniency should show to the perpetrators. Though, it would be a matter of evidence for the prosecution to prove its case considering the nature and gravity of the offence alleged, this Court is not inclined to allow the prayer of the petitioners at this stage.

23. Accordingly, these two petitions are hereby dismissed as devoid of merits.

24. Accordingly, petitions disposed of. No costs.

Judge

Meghalaya
30.07.2026
"Rishi Roy PS"