



Serial No. 02
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

BA No. 62 of 2026

Date of Decision: 14.08.2026

Shri. Adino Marboh
 S/o. (L) D. Sylliang
 R/o. Puriang (Mawkajut) Village,
 P.S. Mawryngkneng,
 East Khasi Hills District
 Meghalaya.

...Petitioner

-Versus-

1. The State of Meghalaya.
 Represented by Public Prosecutor,
 Govt. of Meghalaya
2. Smti. XYZ (Complainant)
 Through the Investigation Officer (IO),
 Mawryngkneng Police Station
 East Khasi Hills District,
 Meghalaya.

...Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

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|-----|---|--------|
| i) | Whether approved for reporting in
Law journals etc.: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |

Appearance:

For the Petitioner/Appellant(s) : Mr. P. Yobin, Adv.
 Mr. K.V. Kharlyngdoh, Adv.
 Mr. L. Syiem, Adv.



For the Respondent(s) : Mr. N. D. Chullai, AAG with
Ms. R. Colney, Addl. PP (For R 1)
Ms. R. Dutta, Legal Aid Counsel (For R 2)

JUDGMENT AND ORDER (ORAL)

1. This is an application for grant of bail made by the petitioner herein on his own behalf, the petitioner having been arrested on 18.01.2026 in connection with Mawryngkneng P.S. Case No. 01(1) of 2026 under Section 9(o)(p)/10 of the POCSO Act. The criminal case emanates from the lodgement of an FIR dated 17.01.2026 before the Officer In-Charge, Mawryngkneng Police Station, wherein the complainant has stated that on being directed by the Child Welfare Committee, East Khasi Hills District, they are required to file the FIR against the petitioner/accused person herein, on the ground that he has sexually assaulted a minor girl.

2. Accordingly, on investigation being carried out the Investigating Officer (IO) has recorded the statement of a number of witnesses and has also seized certain documents, including school certificates.

3. At the conclusion of investigation, the IO has come to a finding that a well-established case is made out against the accused petitioner herein, the offence involved being those under Section 9(j)(i)(k)(l)(o)(p)/10 POCSO Act read with Section 115 BNS and the petitioner/accused person is sent to the court to stand trial. The court of the learned Special Judge (POCSO), Shillong has then taken up the matter for trial, the case being registered as Special



POCSO Case No. 41 of 2026. In due course, charges have been framed against the petitioner/accused person and he is made to answer to the charges made out against him. The stage of the trial is for recording of prosecution witnesses, however, till date no witnesses have yet been examined.

4. Heard Mr. P. Yobin, learned counsel for the petitioner, who has submitted that primarily, the petitioner has a two fold submission to be made before this Court, the first being that the arrest of the petitioner is vitiated on the ground that there was no intimation of the grounds of arrest to the petitioner/accused person at the time of his arrest, as such, his fundamental rights have been violated, particularly, the provision of Article 22(2) of the Constitution of India have not been made applicable to him. As such, on this ground alone he is entitled to be released on bail.

5. The second limb of argument advanced by the learned counsel is that, firstly, the petitioner/accused person is not guilty of the offence charge and secondly, since the charge sheet has already been filed, which means that investigation has been completed therefore, in furtherance of his right to life and liberty as enshrine under Article 21 of the Constitution, keeping him in further judicial custody would serve no purpose. The golden principle of jail jurisprudence of "*bail is rule, jail an exception*", has been laid stress upon by the learned counsel by referring to the case of **Dataram Singh v. State of Uttar Pradesh & Anr., (2018) 3 SCC 22**, and also the case of **Sanjay**



Chandra v. CBI, (2012) 1 SCC 40, para 21, wherein the Supreme Court has held that bail is a rule and jail an exception. It has also been held that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail, since deprivation of liberty must be considered a punishment, such punishment would begin only after conviction, every man is deemed to be innocent until duly tried and duly found guilty.

6. It is, therefore, prayed that this application may be allowed and the petitioner/accused person may be enlarged on bail on any conditions, deemed fit and proper to be imposed by this Court.

7. Heard Mr. N.D. Chullai, learned AAG along with Ms. R. Colney, learned Addl. P.P appearing for the State respondent No. 1, who has strongly opposed the prayer made herein on the ground that the facts and circumstances of the case involving the petitioner/accused person, even at this stage does not entitle him to be granted bail.

8. It is the further submission of the learned AAG, that from the records, particularly from the case diary wherein is found the recording of the statements made by a number of children who were residents of the children's home known as "*Ki Mawlynnai ka Jingim (Children Home)*", which home was run and managed by the daughter of the petitioner/accused person and her husband. In these statements, almost all of those whose statement have been recorded, they have given an account of the contemptible behaviour of the



petitioner/accused person toward such children, where he has practically molested them by invading the very privacy of their personality and person. The learned AAG has also led this Court to some of these statements found in the case diary, such statement being made before the police as well as before the Magistrate.

9. In view of such glaring evidence, the action of the petitioner/accused person cannot be condoned and as such, he is not entitled to be granted bail, submits the learned AAG. This petition deserves to be dismissed as devoid of merits.

10. As to the contention of the learned counsel for the petitioner as regard the alleged non-intimation of the grounds of arrest upon the petitioner/accused person, the learned AAG has submitted that records would show otherwise, the first being the document captioned as "*Intimation of grounds of arrest*", which was served upon the petitioner/accused person on 18.01.2026 at the Women Police Station, Shillong, in presence of reliable witness and also attached with a communication of the same to the petitioner/accused person in the Khasi language which is known to the petitioner/accused person. Therefore, it cannot be said that the grounds of arrest have not been intimated to the petitioner/accused person.

11. The learned AAG has again submitted that, admittedly, the petitioner/accused person has preferred four bail applications before the Trial



Court as well as before this Court and in all the preceding applications, there is no prayer or no contention raised as regard non-intimation of grounds of arrest, as such, the petitioner/accused person cannot come at this stage to raise his prayer on this ground alone. The case of **State of Meghalaya v. Sonam Raghuvanshi @ Bitti @ Bittu**, was referred by the learned AAG, wherein at para 11 and 12 of the order dated 23.07.2026, in **S.L.P. (Crl.) No. 11944 of 2026**, the Apex Court has observed as follows:

“11. We find that the respondent is not entitled for bail, both on merits and on the grounds discussed by both the Courts. There is a fundamental difference between non-service of grounds of arrest and non-furnishing of adequate reasons thereunder. While the first category might vitiate the arrest, in the second category, one has to see the prejudice caused to the accused. In the facts of the instant case, it is not as if the respondent was not served with the grounds of arrest. Hence, the case of the respondent falls within the second category discussed above. The respondent has also not taken the said plea at the earliest point of time, having done so only in her 4th Bail Application before the Trial Court.

12. With respect to the contention of the learned senior counsel for the respondent that there is no waiver of the right guaranteed under Article 22(1) of the Constitution of India and, therefore, the stage at which a plea touching upon fundamental rights is raised would not matter, we would only clarify that when an accused person files a bail application, the stage might become irrelevant. However, when the accused person warranted a finding on merits on the earlier occasions, it is not open for him/her to go back and raise the plea on the issue pertaining to the grounds of arrest thereafter.”

12. Ms. R. Dutta, learned Legal Aid Counsel appearing for the complainant/ respondent No. 3 has submitted that the concerned survivor is still suffering inasmuch as when she was medically examined at the Shillong



Medical College-Meghalaya Institute of Mental Health and Neurological Science, the observation of the Doctor concerned is that she does not respond when called as such, she has to attend for session every week. This, according to the learned Legal Aid Counsel is the effect of the trauma she had undergone because of the action of the petitioner/accused person.

13. This Court has considered the submission made and has also perused the petition as well as the case diary. Though the trial is undergoing, charge sheet having been filed, it would be but proper for the petitioner/accused person to be enlarged on bail considering the fact that he is no longer required for custodial interrogation.

14. However, it is also true that every case has to be looked into from the aspect of the peculiar facts and circumstances surrounding the matter. What is evident on record is the fact that the petitioner/accused person is a person who has been held in high regard by the children of the said Children Home, being fondly referred to as “*paieid*”, which means grandfather. However, with such trust and faith reposed in him, from the statement of the concerned survivor as well as other children of the home, it is a betrayal of such trust that has resulted in the perpetrator taking advantage of the vulnerability of the child’s nature. The statement given by the survivor and others have clearly demonstrated the fact that there is *prima facie* evidence of the petitioner/accused person indulging in sexual assault and molestation. As



such, at this stage, this Court or anybody with a condition will not condone such actions.

15. As to the contention regarding the non-intimation of the grounds of arrest, the counter by the learned AAG in this regard is found convincing by this Court. Therefore, even on this ground alone the petitioner/accused person cannot persuade this Court otherwise.

16. In view of the above, this Court is not inclined to allow the prayer made in this petition, the same is hereby rejected as devoid of merits.

17. Petition is disposed of accordingly. No costs.

Judge

Meghalaya
14.08.2026
"Tiprilynti-PS"