

(2026) 03 MEG CK 1050
In the Meghalaya High Court
Case No : Bail Application No. 7 Of 2026

Ibera Kylla

APPELLANT

Vs

State Of Meghalaya

RESPONDENT

Date of Decision : 19-03-2026

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 180, 483
Bharatiya Nyaya Sanhita, 2023 — Section 70, 126(2)

Citation : (2026) 03 MEG CK 1050

Hon'ble Judges : W. Diengdoh, J

Bench : Single Bench

Advocate : R. Gurung, J. Rana, S.D. Sangma, N.D. Chullai, E.R. Chyne, N.M. Kharshemlang

Final Decision : Disposed Of

Judgement

W. Diengdoh, J

1. Heard Mr. R. Gurung, learned counsel for the petitioner, who has submitted that this petition has been filed under Section 483 BNSS with a prayer for grant of bail to Shri. Shal Shylla @ Hep, who was arrested in connection with Nongpoh Women P.S Case No. 40 (8) 2025 under Section 126(2)/70 BNS, 2023.

2. The learned counsel has submitted that an FIR dated 18.08.2025 was lodged before the Officer In-charge, Women Police, Nongpoh, by the informant who has narrated a sequence of events which took place on 17.08.2025 at 06.15 PM or so, wherein the informant has stated that, on that day, the accused person in question has invited her to go roaming to Byrnihat, and they have decided to meet at the Taxi Stand Nongpoh at the given time, wherein, she met the accused person and entered into the vehicle with the accused person and a driver and some passengers being present at that time. After dropping some passengers, the three of them proceeded to an isolated area with a big field, and there, they were sitting, and the informant ate the lunch she had packed. Thereafter, the accused person and the driver after consuming alcohol, the driver came from

behind and covered her mouth. He then made her lay down on the ground with his elbows and knees on top of her so that she could not move. After that, the accused person (Hep) raped her. The informant struggle to free herself and managed to beat the perpetrator, after which, she pushed him and ran away, she hit in a cave so that they could not find her and after she saw both of them left, she went to the road and took a taxi to the Byrnihat Outpost seeking help. She was then referred to Civil Hospital, Nongpoh for medical examination.

3. The learned counsel has further submitted that on registration of the said FIR, investigation was launched. However, both the accused persons had voluntarily surrendered themselves before the police, whereupon, they were arrested in connection with the said Nongpoh P.S Case. The investigation is concluded and finding a prima facie case well established against the two accused persons, they were made to stand trial before the court. The stage of the trial is for recording of evidence of the prosecution witnesses, being ten of them. Only the evidence of the victim has been recorded so far.

4. The learned counsel has submitted that the charges that were framed against the accused person was under Section 126(2)/70 BNS, which speaks of the offence involving gang rape. However, the learned counsel would maintain that it is not a case of gang rape, rather from the action of the victim and her narration of the fact of the case, it can be seen that this is a case of consensual sexual intercourse. This can be seen when a comparison is made between the statement given by the victim in the FIR and the one given by her before the police under Section 180 BNSS, where it is noticed that in her statement under Section 180, she has clearly indicated that she was the one who had called the accused person in question, and they have together decided to go roaming. Therefore, there is no indication of any force being used by the accused person in questioned.

5. The learned counsel has then submitted that the accused person (Hep) has no criminal antecedent, and, if enlarged on bail, he will abide by any conditions to be imposed by this Court. It is prayed that this petition may be allowed and necessary order be passed for the release of the accused from jail custody.

6. Per contra, Mr. N.D. Chullai, learned AAG along with Mr. E.R. Chyne, learned GA, while opposing the prayer made by the petitioner, has submitted that the contention of the petitioner that the relationship between the victim and the accused person (Hep) is consensual in nature and also that the act of sexual intercourse is also consensual, is bereft of the truth since the facts related by the victim is that when they reached the said field, after having some drinks, it was the driver who had pinned her down and subsequently, it was Hep who had raped her. Therefore, there is no consent in such a case. It is however, a matter of evidence as to whether there was consent or not, submits the learned AAG.

7. The leaned AAG has also submitted that, since the charges have been framed against the accused persons, Section 70 BNS being one of them, which speaks of

gang rape, the offence being serious in nature, on this ground alone the prayer for grant of bail may not be allowed.

8. Ms. N.M. Kharshemlang, learned Legal Aid Counsel representing the victim has also opposed the prayer for grant of bail, and has submitted that, though the victim may have known the two accused persons, particularly Hep, however, the incident which happened at the place of occurrence, where after she was raped and had managed to escape, she saw the two accused persons searching for her which has frightened her, as such, if bail is granted to the accused person in question, there is the possibility of her being threatened. It is therefore submitted that this petition may be dismissed as devoid of merits.

9. This Court upon hearing the learned counsels for the parties, is made to understand that this is a case where two accused persons are made to stand trial for the offence of gang rape.

10. Though the allegation is serious in nature, however, it is also to be taken into account the fact that an accused person facing trial in a court of law, particularly in criminal offence, is said to be innocent until proven guilty, which, if so, found guilty, would have to face the consequences of conviction and imprisonment.

11. It is to be reminded that the stage of investigation is over, therefore, the accused person is no longer required to be questioned.

12. In the meantime, it may not be necessary for any person or an accused person for that matter to be incarcerated in custody, provided the circumstances are such that, if allowed to be released from custody, he would flee from justice or threaten the witnesses or tamper with the evidence. However, if such an accused person can assure the court or provide sufficient surety, this aspect of the matter can be taken care of in this respect.

13. Accordingly, at this point of time, this Court is of the view that the accused person/petitioner is to be allowed to present his defence before the Trial Court in a free and fair atmosphere. Needless to say, even, if he is enlarged on bail, stringent conditions will be imposed to ensure that he functions within the parameters of law. Accordingly, the prayer made in this petition is hereby allowed.

14. The petitioner/accused 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 survivor 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.

15. In view of the above, this petition is disposed of accordingly. No costs.