

(2025) 02 MEG CK 0971
In the Meghalaya High Court
Case No : Bail Application No. 8 Of 2025

Melarishisha Kharsati

APPELLANT

Vs

State Of Meghalaya

RESPONDENT

Date of Decision : 14-02-2025

Acts Referred:

Bhartiya Nyaya Sanhita, 2023 — Section 64(1), 75, 324(3), 329(3), 351(2)
Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 180, 183

Citation : (2025) 02 MEG CK 0971

Hon'ble Judges : W. Diengdoh, J

Bench : Single Bench

Advocate : L. Syiem, H. Abraham

Final Decision : Disposed Of

Judgement

W. Diengdoh, J

1. Heard Mr. L. Syiem, learned counsel for the petitioner who has submitted that an FIR dated 29.11.2024 was lodged before the Officer In-Charge, Umroi PIC Khapmara, Ri-Bhoi District wherein the complainant had made specific allegation of sexual assault committed upon her by the husband of the petitioner herein, namely Shri. Balashanbor Sten. On the basis of such information, a FIR was registered as Nongpoh Women PS Case No. 73(11)2024 under Sections 64(1)/329(3)/351(2)/75/324(3) BNS. Investigation was accordingly taken up and on completion of the same, the Investigating Officer had filed the charge sheet on 04.01.2025 with an observation that there exists a prima facie case against the accused/husband of the petitioner to make him to stand trial before the competent court of jurisdiction for the offence as alleged in the FIR.

2. The learned counsel has taken this Court to the statement of the prosecutrix recorded under Sections 180 and 183 of the BNSS respectively to say that there are contradictions in such statements and the fact is that the prosecutrix and the accused/husband of the petitioner are in an intimate relationship and fearing the

wrath of her husband who has discovered the affair, the FIR was accordingly lodged.

3. The learned counsel has also urged upon this Court for consideration for grant of bail on behalf of the accused/husband of the petitioner on the additional ground that the accused/husband of the petitioner being under medical treatment, in the opinion of the doctor is required to go for further review by a surgeon specialist, the fact being that he has been admitted at Civil Hospital, Nongpoh on 02.02.2025 for his ailment.

4. The learned counsel has submitted that the accused/husband of the petitioner being the bread earner of the family and the investigation having been completed, he may therefore, be enlarged on bail with any conditions deemed fit to be imposed by this Court.

5. Mr. H. Abraham, learned GA has opposed the prayer made by the petitioner on the ground that the offences alleged against the accused/husband of the petitioner are serious in nature.

6. The second contention of the learned GA is with regard to the reliance of the petitioner as far as the medical treatment of the accused person is concerned, to say that the prison authorities are adequately equipped with medical officials who will examine the accused/patient on a regular basis and would also allow treatment of any medical complaint on priority basis. Therefore, there is no question of the accused to be enlarged on bail on this ground.

7. This Court has heard the parties and has also perused the petition in question and on the basis of the submissions so made, is convinced that the case involving the accused person in question has reached the stage of consideration of charges, though as submitted by the learned counsel for the petitioner, charges have not yet been framed. Though the merits of the case on the basis of the statement made by the prosecutrix under Sections 180 and 183 BNSS respectively may not be taken into consideration at this point of time since the same are subject matter of evidence at the relevant point of time, this Court will look at another angle of the matter to say that since investigation is complete, no purpose will be served for the accused to be kept in custody any further. In fact, he is at liberty to be allowed to make effective defence of his case at the trial. In this regard, the case relied upon by the petitioner, that is, the case of *Sanjay Chandra v. Central Bureau of Investigation*, (2012) 1 SCC 40 at para 21 which is reproduced herein below, is found applicable to the case of the accused person in question.

"21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins

after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.”

8. As far as the medical treatment is concerned, though this Court is confident of the adequate treatment administered by the medical officials at the prison complex, under the peculiar circumstances herein, the accused person is at liberty to pursue his own course as far as medical treatment is concerned.

9. In view thereof, this Court hereby allows this petition and direct the accused person/husband of the petitioner to be released on bail on the following conditions that:

- i. He shall not abscond or tamper with the evidence and witnesses;
- ii. He shall have no contact with the prosecutrix whatsoever till completion of the trial except, if warranted, by the trial court;
- iii. He shall not leave the jurisdiction of Meghalaya without prior permission of the trial court;
- iv. He shall appear before the court as and when required; and
- v. He shall bind himself on a personal bond of ₹ 20,000/- (rupees twenty thousand) only with one surety of like amount to the satisfaction of the trial court.

10. Needless to say, any violation of the abovementioned conditions would allow the prosecution to file an appropriate application before the trial court for cancellation of bail.

11. Petition disposed of.