

(2025) 02 MEG CK 0961

In the Meghalaya High Court

Case No : Bail Application No. 79 Of 2024

Rahim Uddin Sheikh @ Md. Rahim Uddin

APPELLANT

Vs

State Of Meghalaya Represented By P.P., Meghalaya

RESPONDENT

Date of Decision : 12-02-2025

Acts Referred:

India Penal Code, 1860 — Section 342, 363, 376(3)

Protection Of Children From Sexual Offences Act, 2012 — Section 3(a), 4

Citation : (2025) 02 MEG CK 0961

Hon'ble Judges : W. Diengdoh, J

Bench : Single Bench

Advocate : M.A. Sheikh, P. Sunar, R. Paul, S. Sengupta, H. Abraham

Final Decision : Disposed Of

Judgement

W. Diengdoh, J

1. Heard Mr. M.A. Sheikh, learned counsel for the petitioner.
2. Also heard Mr. S. Sengupta, learned Addl. PP along with Mr. H. Abraham, learned GA for the State respondent.
3. As noticed earlier, the respondent No. 2, who is the complainant herein, has failed to appear before this Court inspite of notice being issued. Accordingly, matter shall proceed ex-parte against such respondent.
4. The case of the petitioner is that an FIR was lodged by the respondent No. 2/ complainant on 16.06.2018 before the Officer-in-Charge, Kharkutta Police Station, North Garo Hills, inter alia, alleging that his minor daughter was found missing on 24.06.2018, and on a search being conducted, after four days, the minor daughter was found in the company of the petitioner. Accordingly, on the FIR being registered as Kharkutta P.S. Case No. 13(06) 2018 under Section 363/342/376(3) IPC read with Section 3(a)/4 of the POCSO Act, investigation was launched.

5. The petitioner being the main accused person, was eventually arrested on 30.03.2023. In the meantime, the Investigating Officer, after completion of investigation, had filed the charge sheet on 14.04.2023 finding a prima facie case well-established against the petitioner/accused herein under the relevant provision of law. He is accordingly made to stand trial before the competent court of jurisdiction.

6. It is also the submission of the learned counsel that the petitioner/accused is in custody for about one year ten months or so, and the stage of the case is for recording of evidence of the prosecution witnesses, who are eleven in all. Till date, only the evidence of the complainant has been recorded. The learned counsel also submits that the fact that the petitioner/accused has been in custody for a prolonged period of time, it is prayed that he may be enlarged on bail with any conditions to be imposed by this Court, so as to enable him to defend his case properly before the Trial Court.

7. The learned Addl. PP, in all fairness, has submitted that, though, there is no strong objection to the prayer made, however, this Court is called upon to exercise its discretionary power in the matter.

8. On consideration of the submission made, and on perusal of the materials on record, it is observed that the trial of the case has indeed taken some time in its progress and considering the fact that the evidence of the first witness was recorded on 19.01.2024 and more than a year has passed for the second witness to be examined, not to say of the other witnesses on board. This Court is of the opinion that the case has been prolonged substantially.

9. Without casting aspersion of the conduct of the learned Trial Court, this Court is in agreement with the submission of the learned counsel for the petitioner/accused that at this point of time, since the investigation has been completed, and the charge sheet has been filed, there is practically no apprehension of the accused person tampering with the evidence. Consequently, the prayer of the petitioner/accused is hereby allowed.

10. The petitioner/accused, Rahim Uddin Sheikh @ Md. Rahim Uddin is directed to be released on bail on the following conditions that:

i) He shall not abscond;

ii) He shall not intimidate the witnesses, particularly the survivor;

iii) He shall have no physical contact whatsoever with the survivor till completion of the trial, and would do so, only on specific order of the Trial Court, if so required;

iv) He shall bind himself on a personal bond of ₹ 50,000/- (Rupees fifty thousand) only with one surety of like amount to the satisfaction of the Trial Court;

v) He shall not leave the jurisdiction of the State of Assam and Meghalaya

without specific permission of the Trial Court; and

vi) He shall appear before the court as and when required.

11. Any violation of the above conditions, would allow the prosecution to file an appropriate application before the Trial Court for cancellation of bail.

12. In view of the above, this petition is disposed of accordingly.