

(2025) 01 MEG CK 1651
In the Meghalaya High Court
Case No : Bail Application No. 83 Of 2024

Robiul Hussain

APPELLANT

Vs

State Of Meghalaya & Ors.

RESPONDENT

Date of Decision : 30-01-2025

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 483
Protection Of Children From Sexual Offences Act, 2012 — Section 31

Citation : (2025) 01 MEG CK 1651

Hon'ble Judges : W. Diengdoh, J

Bench : Single Bench

Advocate : S. Nongsiej, K. Khan, S. Sengupta, H. Kharmih

Final Decision : Disposed Of

Judgement

W. Diengdoh, J

1. Heard Ms. S. Nongsiej, learned counsel for the petitioner, who at the outset, has submitted that the notice issued upon the respondent No. 3 has been affected, and affidavit of service in this regard has been filed. However, the respondent No. 3 is not present in Court today.

2. It is the case of the petitioner that this bail application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 read with Section 31 of the POCSO Act, 2012 has been preferred primarily on two grounds, firstly, that the petitioner, who is the accused person undergoing trial in Special (POCSO) Case No. 16 of 2023 before the Court of the learned Special Judge (POCSO), Ri-Bhoi District, Nongpoh is suffering from a number of ailments which are serious in nature, and which according to the opinion of the doctor requires surgery. However, in this regard, this Court vide order dated 27.12.2024, had allowed the petitioner/accused to undergo surgery at NEIGRIHMS, Shillong, but the said procedure could not be completed, and in the meantime, the petitioner/accused was also referred to Nongpoh Civil Hospital for treatment.

3. The learned counsel submits that, in course of time, the petitioner/accused has developed problems in his ear which has affected his hearing, for which he requires to undergo medical treatment. Therefore, it is the prayer of the learned counsel that the relatives of the petitioner may be allowed to get the petitioner/accused properly treated at any hospital or place of treatment of their choice.

4. The second contention raised by the learned counsel is that the stage of the case at present is for recording of evidence, the evidence of the survivor has already been recorded out of the list of eleven witnesses, and the fact that the petitioner/accused is already in custody for about 2 years or so, the trial may not be able to be concluded within a short period of time. Therefore, on this ground too, the petitioner/accused may be allowed to be enlarged on bail with any conditions that this Court may deem fit and proper to impose.

5. Mr. K. Khan, learned PP assisted by Mr. S. Sengupta and Mr. H. Kharmih, learned Addl. PP on behalf of the State respondent Nos. 1 & 2, in all fairness, has conceded to the prayer made by the learned counsel for the petitioner/accused, and has submitted that, if enlarged on bail, the petitioner/accused may be directed to abide by strict conditions to be imposed by this Court.

6. This Court on consideration of the submission made, though conscious of the fact that the offence involved is serious in nature, however, taking into account, the medical condition of the accused/petitioner, and the fact that the trial of the case may take some time to be concluded, it is inclined to allow the prayer made in this petition. Accordingly, this petition is allowed.

7. The petitioner/accused, Shri. Robiul Hussain is directed 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 whatsoever with the survivor, except during the course of trial, if so warranted;
- iii) He shall bind himself on a personal bond of ₹ 50,000/- (Rupees fifty thousand) only with one solvent surety of like amount to the satisfaction of the Trial Court; and
- iv) He shall appear before the court as and when required, and in case, he requires to proceed for medical treatment elsewhere outside his place of residence, the same should be informed to the Trial Court by way of an affidavit to be filed therein with all relevant details.

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