



Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.M.C. No. 14 of 2021 in
Crl. A. No. 8 of 2021

Date of Order :01.09.2021

Shri. Shembhalang Rynghang Vs. State of Meghalaya & 2 Ors.

Coram:

Hon’ble Mr. Justice Ranjit More, Judge

Hon’ble Mr. Justice W.Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. K.Ch. Gautam, Adv.

For the Respondent(s) : Mr. K.Khan, PP with
Mr. A.Kharwanlang, GA.

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

Per R.More, (J)

1. Heard Mr. K.Ch. Gautam, learned counsel for the applicant and Mr. K.Khan, learned PP for the respondent-State.
2. By the judgment and order dated 23-04-2021 passed in Special (POCSO) Case No. 57 of 2018, the applicant was convicted for an offence defined under Section 3 and 5 (j) (ii) punishable under Section 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012. By separate order dated 28-04-2021, the applicant was sentenced to suffer rigorous imprisonment for 10(ten) years and fine of ₹ 10,000/- (Rupees Ten thousand). In default of payment of fine, the applicant was directed to undergo another month of imprisonment.



3. Being aggrieved and dissatisfied by the above order of conviction and sentencing, the applicant has preferred CrI. No. 8/2021. The said appeal is already admitted and therefore the present application is taken up for grant of bail during pendency of the said appeal.

4. The prosecutrix and applicant/accused are from the same village. The age of the prosecutrix at relevant time was 16 years and the applicant was 19 years of age. There is no dispute that the applicant and prosecutrix were in a love relationship and this love relationship resulted into physical relationship out of which the prosecutrix delivered a baby boy on 20-06-2018.

5. The offence under the POCSO Act was registered against the applicant at the behest of the Medical Officer who examined the Prosecutrix on 29-11-2017 and found that she was two months' pregnant. It is also important to note that the prosecutrix and the applicant belongs to the Khasi Tribe and subsequent to registration of FIR, they got married in Church on 12-12-2019. Certificate to that effect is annexed at page 53 of the appeal memo. This marriage was subsequently registered as per requirement of the Meghalaya Compulsory Registration of Marriage Act, 2012 on 19-11-2020. During the pendency of the trial, the applicant was on bail and he was taken into custody only after his conviction.

6. Mr. K.Khan, learned PP relied upon the provision of Section 29 of the POCSO Act, 2012 and submitted that in terms of this section, the applicant has not discharged the burden. He also submitted that the prosecutrix being minor at the relevant time, the consent is immaterial. He submitted that instead of granting bail to the applicant, Court can hear the appeal itself expeditiously.

7. Having heard the learned counsel appearing for the respective parties, we are inclined to grant bail to the applicant under the facts and circumstances mentioned above, especially when there is no dispute that the applicant and the prosecutrix are staying together along with their son. Refusing bail to the applicant, in our opinion, will cause prejudice to the prosecutrix also.



8. In above circumstances, the application is disposed of by passing following order.

1. During pendency of final disposal of the appeal, the sentence awarded to the applicant under the impugned judgment and order is suspended and the applicant is directed to be released on bail on furnishing personal bond for an amount of ₹ 10,000/- (Rupees Ten thousand) only with one or two sureties of like amount on the following condition:

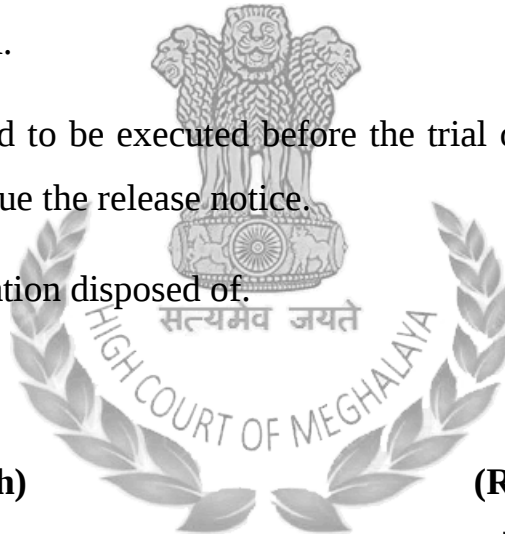
- (i) The applicant shall not abscond during pendency of the appeal.
- (ii) The applicant shall remain present before the concerned Police Station as and when required.
- (iii) The applicant shall remain present at the time of final hearing of this appeal.

9. The bail bond to be executed before the trial court concerned who will accordingly issue the release notice.

10. Misc. application disposed of.

(W.Diengdoh)
Judge

(R. More)
Judge



Meghalaya
01.09.2021
"Samantha PS"