

MANU/MG/0459/2025

IN THE HIGH COURT OF MEGHALAYA AT SHILLONG

B.A. No. 50 of 2025

Decided On: 18.11.2025

Bibiana Wanniang **Vs.** State of Meghalaya and Ors.

Hon'ble Judges/Coram:

Wanlura Diengdoh, J.

Counsels:

For Appellant/Petitioner/Plaintiff: S. Deb, Adv.

For Respondents/Defendant: S.A. Sheikh, GA, S. Shyam, GA and S.D. Upadhaya, LAC

DECISION

Wanlura Diengdoh, J.

1. This is an application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 read with Section 31 of the POCSO Act made by the applicant for grant of bail on behalf of her son, Shri. Ebriwel Wanniang @ Everywhere Wanniang, who is an accused, who was arrested in connection with Nongstoin P.S. Case No. 52 (7) 2025, later registered as Special POCSO CaseNo. 44/2025 pending before the Court of the learned Special Judge (POCSO), West Khasi Hills District, Nongstoin for an allegation of having committed an offence punishable under Section 6 of the POCSO Act.

2. Heard Mr. S. Deb, learned counsel for the applicant, who has briefly narrated the facts of the case, to say that the genesis of this case started from a communication dated 22.07.2025 (Annexure-1 of this petition) issued by the Medical & Health Officer, I/c Markasa PHC, Eastern West Khasi Hills, Meghalaya-793120 addressed to the Officer-in-Charge (OC), Nongstoin Police Station, wherein he has reported a case of teenage/underage pregnancy of a minor girl, who had come to the PHC for medical examination and was found to be pregnant. Accordingly, the police have taken initiative and has registered a case under the relevant provisions of the POCSO Act, and on inquiry, the accused son of the applicant is said to be the person involved causing the pregnancy of the said minor girl.

3. On investigation launched, the Investigating Officer, had completed his investigation and filed the charge sheet on 17.09.2025 with the observation that a prima facie case under Section 5(j)(ii)/6 POCSO Act is found well-established against the accused person and he is made to stand trial before the competent court of jurisdiction. Till date, charges have not yet appeared to be framed against the said accused person.

4. The learned counsel went on to submit that the factual aspect of the matter is that the accused person and the survivor are in a love relationship and out of this relationship, there was an incident when they had consensual sexual intercourse resulting in the said pregnancy. This fact was not denied by the survivor in her statement before the police as well as before the Magistrate when she admitted that she is in a love relationship with the accused and the sexual act was consensual.

5. The learned counsel has further submitted that, under such circumstances, as far as

the question of bail is concerned, the accused person may be allowed to be enlarged on bail with any conditions deemed fit and proper to be imposed by this Court, considering the fact that he is a young boy of about 20 years or so and is earning his living as daily wage earner.

6. It may be pointed out that the respondent No. 3/mother of the survivor has been duly informed of this application pending before this Court, when notice was issued upon her through the Investigating Officer, and she has personally appeared before the Court today, and has also taken the assistance of a Legal Aid Counsel to represent her before this Court. Accordingly, Mr. S.D. Upadhaya, learned Legal Aid Counsel has taken on the task of representing the said respondent No. 3/mother of the survivor. On being instructed, the learned Legal Aid Counsel has submitted that the mother of the survivor has no objection to the prayer made in this application, if bail is granted to the accused.

7. Mr. S.A. Sheikh, learned GA appearing on behalf of the State respondent has also acknowledged the factual aspect of the case as has been stated by the learned counsel for the applicant, but has however submitted that facts on record, would show that the survivor is barely 13 years of age and she is very young to be involved in a relationship of this kind. In fact, even, if she had consented to the fact that she had voluntarily sexual relationship with the accused, according to the relevant provisions of law, that would not exonerate the accused person for any liability as far as the consequences of this offence is concerned. However, the learned GA has left it to the discretion of this Court to pass necessary orders in this regard.

8. This Court has considered the submission made by the learned counsels for the parties, and has also noted that the statement made by the survivor inspite of the fact that she has acknowledged that the act of sexual intercourse had indeed been committed by her and the accused person, she has maintained was consensual in nature, and that, she has no desire that the accused person be punished by such an act, since he is practically her husband.

9. This Court has also noted that the mother of the survivor has consented to the said relationship between her minor daughter and the accused person, but perhaps because of her ignorance of the provisions of law, she is not aware of such an act, per se, it is illegal in the eyes of law.

10. Be that as it may, this Court, at this juncture, when considering an application for grant of bail, in the peculiar facts and circumstances of the case, considering the relationship between the survivor and the accused person, is inclined to allow the prayer made in this petition. In this connection, it will not be out of place to cite the case of Vijayalakshmi & Anr v. State represented by the Inspector of Police & Anr reported in 2021 SCC OnLine Mad 317, para 18. For ready reference, the same is reproduced herein below:

"18. In the present case, the 2nd Petitioner who was in a relationship with the 2nd Respondent who is also in his early twenties, has clearly stated that she was the one who insisted that the 2nd Respondent take her away from her home and marry her, due to the pressure exerted by her parents. The 2nd Respondent, who was placed in a very precarious situation decided to concede to the demand of the 2nd Petitioner. Thereafter, they eloped from their respective homes, got married and consummated the marriage. Incidents of this nature keep occurring regularly even now in villages and towns and occasionally in cities. After the parents or family lodge a complaint, the police

register FIRs for offences of kidnapping and various offences under the POCSO Act. Several criminal cases booked under the POCSO Act fall under this category. As a consequence of such a FIR being registered, invariably the boy gets arrested and thereafter, his youthful life comes to a grinding halt. The provisions of the POCSO Act, as it stands today, will surely make the acts of the boy an offence due to its stringent nature. An adolescent boy caught in a situation like this will surely have no defense if the criminal case is taken to its logical end. Punishing an adolescent boy who enters into a relationship with a minor girl by treating him as an offender, was never the objective of the POCSO Act. An adolescent boy and girl who are in the grips of their hormones and biological changes and whose decision-making ability is yet to fully develop, should essentially receive the support and guidance of their parents and the society at large. These incidents should never be perceived from an adult's point of view and such an understanding will in fact lead to lack of empathy. An adolescent boy who is sent to prison in a case of this nature will be persecuted throughout his life. It is high time that the legislature takes into consideration cases of this nature involving adolescents involved in relationships and swiftly bring in necessary amendments under the Act. The legislature has to keep pace with the changing societal needs and bring about necessary changes in law and more particularly in a stringent law such as the POCSO Act."

11. In the above, the Hon'ble Madras High Court, has discussed on the aspect of love or romantic relationship and the fact that the parties involved should not be made to suffer unnecessarily. Under such circumstances, this petition is hereby allowed.

12. The accused person, Shri. Ebriwel Wanniang @ Everywhere Wanniang 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 with the survivor during the course of trial, unless required to do so by a specific order of the Trial Court; and
- v) That he shall bind himself on a personal bond of ' 20,000/- (Rupees twenty thousand) with one surety of like amount to the satisfaction of the Trial Court.

13. In view of the above noted observations, this petition is accordingly disposed of. No costs.

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