

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

14.04.2015

Heard Mr. S.P. Mahanta, learned Sr. counsel for the petitioners, who submits that, vide order dated 17.03.2015 the Hon'ble Court desires that all the respondents should file their counter affidavits. It appears from the record that all the respondents had not filed their counter affidavits till date.

Mr. S. Sen Gupta, learned State counsel is present. He is directed to file the counter affidavits on behalf of the respondents who are left out.

List this matter after 2(two) weeks for counter affidavit and further order.

**JUDGE**

*D. Nary*

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

**14.04.2015**

Heard Mr. S. Chakravarty, learned counsel for the petitioner.

The matter was fixed today for hearing.

Mrs. T. Yangi, learned counsel for the respondent is not present, however, her junior informed that, she is unwell and seek time.

Mr. S. Chakravarty, learned counsel for the petitioner submits that he will be out of station for some personal work and suggested that the matter may be fixed on 04.05.2015.

Prayer is allowed.

List this matter on *04.05.2015* for hearing.

**JUDGE**

*D. Nary*

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

14.04.2015

Heard Mr. K. Ch. Gautam, learned counsel for the petitioner, who submits that, a false FIR has been lodged on the 31<sup>st</sup> October, 2014 and on the basis of the said FIR, the police had registered a case bearing Tura Women P.S. Case No. 53 (10) of 2014 under section 448/376/511 IPC read with Section 7/8 of POCSO Act. Therefore, the petitioner is in apprehension that he may be arrested by the police at that point of time. Besides that, the petitioner is a Govt. Servant and in the event of his arrest, he will suffer irreparable loss.

On the other hand, Mr. P. Yobin, learned State counsel strongly objected the bail and submits that the I/O need a custody for the interest of the investigation. So, anticipatory bail may not be granted and also produced the C.D before this court. The I/O Mrs. G.T. Sangma is present before the court.

I have perused the C.D before me and on perusal of the C.D; I could not satisfy myself that there is no material to file the FIR on the part of the complainant. From the C.D, it also appears that the accused person is absconding to avoid the arrest. From a series of judgment wherein, it is made clear that, when the accused is absconding, bail should not be granted whimsically.

After considering the submissions advanced by the learned counsel at Bar and on perusal of the C.D and keeping in mind the nature of offence, I am of the view that it is not a fit case to grant pre-arrest bail, which may hamper the proper investigation. Hence, bail application stands rejected and stands disposed of.

Court Master to return the C.D to the learned State counsel along with a copy of this order.

The matter stands disposed of.

**JUDGE**



**BEFORE**  
**THE HON'BLE MR. JUSTICE, S.R. SEN**

14.04.2015

The instant bail applications was moved before this court on the basis of the FIR dated 06.03.2015 in connection with Madanryting P.S. Case No. 34 (3) 2015 under section 363/376 (g) IPC read with Section 3/4 of POCSO Act.

Both the accused persons Shri Blessonroy Kharshandi and Shri Kiewirat Nengnong are in custody and since the Lower Court concerned has refused the bail applications, the petitioners has approached this court by way of this bail application which was registered as Bail Application No. 13 of 2015 and Bail Application No. 14 of 2015 and taken up today for common hearing and disposal.

Mr. H. Kharmih, learned counsel for the petitioners submits that the FIR has been filed without any basis. The accused persons if at all committed sexual intercourse with the victim with full consent as they were friends. The learned counsel also further submitted that, there is already a compromise between the complainant and the relatives of the accused persons for the purpose of obtaining bail. He also submitted that, since it is a consent intercourse, bail may be granted.

On the other hand, Mr. S. Sen Gupta, learned State counsel is present along with the I/O and produce the C.D and also put up the ossification test conducted by the medical officer of NEIGRIHMS, Shillong.

After hearing the submissions advanced by the learned counsel at Bar as well as on perusal of the C.D and the ossification test, I could not satisfy myself that the FIR in question is without any basis.

It is a well settled law that only a major can give a valid consent. From the ossification test dated 16.03.2015, it is clear that the victim was above 14 years of age but less than 16 years of age. If it is so, definitely, the victim is a minor and consent of a minor is no consent at all. Therefore, I cannot consider or accept the submission advanced by the learned counsel for the petitioner that, it is a consent sexual intercourse. Therefore, I do not find any merit to consider the bail applications. Hence,

by this common order both the Bail Application No. 13 of 2015 and Bail Application No. 14 of 2015 are hereby rejected and stands disposed of.

The I/O concerned is directed to expedite the investigation.

Court Master is directed to return the medical report, etc to the learned State counsel along with a copy of this order.

The matter stands disposed of.

**JUDGE**

*D. Nary*

**BEFORE**  
**THE HON'BLE MR. JUSTICE, S.R. SEN**

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The I/O concerned is directed to expedite the investigation.

Court Master is directed to return the medical report, etc to the learned State counsel along with a copy of this order.

The matter stands disposed of.

**JUDGE**

*D. Nary*

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

14.04.2015

Heard Mr. N.G. Kundo, learned counsel for the petitioner.

At the outset, it is noticed that, the cause title of the petition is defective as it was addressed to "*The Hon'ble Ms. JUSTICE UMA NATH SINGH, M.A., LL.B., the Chief Justice of the Meghalaya High Court and other companion Justices of the said Hon'ble Court*". He should not have been addressed as 'Ms' besides that, the learned counsel submits that, initially petition was moved before the learned Chief Judicial Magistrate, Williamnagar, East Garo Hills who has neither accepted the petition nor rejected the petition, but simply refuses to entertain the petition. However, since the cause title itself is defective, I am unable to entertain this petition.

The learned counsel for the petitioner prays that he may be allowed to withdraw the petition with a liberty to file afresh.

Prayer is allowed and the matter stands disposed of on being withdrawal.

Mr. N.D. Chullai, learned Sr. GA appeared for and on behalf of the State.

**JUDGE**

*D. Nary*

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

14.04.2015

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The learned counsel for the petitioner prays that he may be allowed to withdraw the petition with a liberty to file afresh.

Prayer is allowed and the matter stands disposed of on being withdrawal.

Mr. N.D. Chullai, learned Sr. GA appeared for and on behalf of the State.

**JUDGE**

*D. Nary*

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

14.04.2015

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At the outset, it is noticed that, the cause title of the petition is defective as it was addressed to "*The Hon'ble Ms. JUSTICE UMA NATH SINGH, M.A., LL.B., the Chief Justice of the Meghalaya High Court and other companion Justices of the said Hon'ble Court*". He should not have been addressed as 'Ms' besides that, the learned counsel submits that, initially petition was moved before the learned Chief Judicial Magistrate, Williamnagar, East Garo Hills who has neither accepted the petition nor rejected the petition, but simply refuses to entertain the petition. However, since the cause title itself is defective, I am unable to entertain this petition.

The learned counsel for the petitioner prays that he may be allowed to withdraw the petition with a liberty to file afresh.

Prayer is allowed and the matter stands disposed of on being withdrawal.

Mr. N.D. Chullai, learned Sr. GA appeared for and on behalf of the State.

**JUDGE**

*D. Nary*

**MC[WP(C)] No. 64 of 2015**

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

**14.04.2015**

This Misc. Case will be decided on the next date fixed.  
List this matter after 2(two) weeks.

**JUDGE**

*D. Nary*

**WP(C) No. 6 of 2015**

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

**14.04.2015**

Mr. S. Sen Gupta, learned State counsel is present.  
None has appeared for and on behalf of the petitioner.  
List this matter after 2(two) weeks for further order.

**JUDGE**

*D. Nary*

**WP(C) No. 38 of 2015**

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

14.04.2015

Heard Mr. S. Sen Gupta, learned State counsel, who sought further 3(three) weeks' time to file the counter affidavit.

Ms. A. Sinha, learned counsel for the petitioner is present.

List this matter after 3(three) weeks for counter affidavit and further order.

**JUDGE**

*D. Nary*

**WP(C) No. 66 of 2015**

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

**14.04.2015**

Counsel for the petitioner is absent.

Mr. A.H. Hazarika, learned State counsel is present.

List this matter after a week.

**JUDGE**

*D. Nary*

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

14.04.2015

Heard Mr. N. Mozika, learned counsel for the petitioner as well as Mr. K. Khan, learned GA for the State and Mr. B. Khyriem, learned counsel for the respondents No. 2 and 3 (MPSC).

All the counsels for the parties submit that, in this instant case, the petitioner is not over-age as of today. However, the petitioner's apprehension is that, in case if the examination date is extended, in such circumstances, she may be over-age. I am of the opinion that, it should not be the correct position; the date of age should be considered from the date of application submitted and the petitioner should not suffer for any extension of the date of examination.

The MPSC should take a note of it and to follow the said directions.

Accordingly, the matter stands disposed of.

**JUDGE**

*D. Nary*

**BEFORE**  
**THE HON'BLE MR. JUSTICE, S.R. SEN**

14.04.2015

Heard Mr. S. Nath, learned counsel for the petitioner, who submits that, the petitioner may be terminated with effect from 04.06.2015 where necessary direction may be issued.

None of the CGC appeared. However, Mr. S. Thapa, learned counsel informed the court that Mr. K. Paul, learned CGC is unwell. Issue notice to the respondents made returnable within 2(two) weeks.

Since Mr. S. Thapa, learned counsel appearing on behalf of Mr. K. Paul, learned CGC has received the copy, no formal notice is necessary.

List this matter after 2(two) weeks for counter affidavit and further order.

**JUDGE**

*D. Nary*

**WP(C) No. 240 of 2014**

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

**14.04.2015**

Heard Mr. H. Kharmih, learned counsel for the petitioner, who submits that the service report is awaited against the respondent No. 4.

Also heard Mr. S. Sen Gupta, learned State counsel.

List this matter after 2(two) weeks for service report and further order.

**JUDGE**

*D. Nary*

**WP(C) No. 282 of 2013**

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

**14.04.2015**

Heard Mr. B.K. Deb Roy, learned counsel for the petitioner,  
who submits that the pleading is complete.

List this matter after 2(two) weeks for hearing.

**JUDGE**

*D. Nary*

**WP(C) No. 324 of 2014**

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

**14.04.2015**

Heard Mr. S.P. Mahanta, learned Sr. counsel assisted by Ms. S. Pde, learned counsel appearing for and on behalf of the petitioners.

Mr. S. Sen Gupta, learned State counsel sought further 3(three) weeks' time to file the counter affidavit. Two weeks' time is granted.

Mr. S. Dey, learned counsel for the respondents No. 6, 7 and 8 submits that, he is going to file the counter affidavit in the course of the day.

List this matter after 2(two) weeks for counter affidavit and further order.

**JUDGE**

*D. Nary*

**WP(C) No. 326 of 2014**

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

**14.04.2015**

Heard Mr. B.K. Deb Roy, learned counsel for the petitioner.  
None has appeared for and on behalf of the Union of India.  
List this matter after 2(two) weeks for hearing.

**JUDGE**

*D. Nary*

**WP(C) No. 342 of 2014**

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

**14.04.2015**

Heard Mr. B.K. Deb Roy, learned counsel for the petitioner.  
None has appeared for and on behalf of the Union of India.  
List this matter after 2(two) weeks for hearing.

**JUDGE**

*D. Nary*

**WP(C) No. 345 of 2014**

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

**14.04.2015**

Heard Mrs. N.G. Shylla, learned counsel for the petitioner, who submits that, she needs 2(two) weeks' time to file the rejoinder affidavit.

Prayer is allowed.

Mr. H. Kharmih, learned GA for the State is present.

List this matter after 2(two) weeks for rejoinder affidavit and further order.

**JUDGE**

*D. Nary*

**WP(C) No. 364 of 2014**

**BEFORE  
THE HON'BLE MR. JUSTICE, S.R. SEN**

**14.04.2015**

As suggested by Mr. K.S. Kynjing, learned Advocate General for the respondents No. 3 and 4 as well as Mr. V.G.K. Kynta, learned Sr. counsel for the petitioner, list this matter on *28.04.2015* for hearing.

**JUDGE**

*D. Nary*