

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**BA(SH) No. 35 of 2013**

**14.05.13**

Heard Mr. H Abraham, the learned counsel appearing on behalf of the detenu who submits that, in spite of the order dated 6.12.12 passed by this Court in WP (Crl.) (SH) No. 5 of 2012 and consequently released order issued by the Government of Meghalaya dated 21.12.12, till date the detenu has not been released from custody.

The learned counsel further contended that he had moved bail application before the Sub-Divisional Magistrate, Sohra on 6.3.13 but the same was kept in abeyance and finally on 26.03.13 passed an order rejecting the bail application and at the same time directed the IO to file a charge-sheet. Finding no other way out, he approached again this Court with this instant bail application No. 35/2013.

In compliance with the order passed by this Court on 7.05.13, Mr. C. Diengdoh, Sub-Divisional Magistrate, Sohra, Mr. MG Ragharendra Kumar, IO and Mr. Akhil Ch. Baruah, Superintendent District Jail, Shillong are present along with Mr. ND Chullai, the learned PP.

Director General of Police, Meghalaya is not present. However, Mr. ND Chullai, the learned PP has moved an application for on behalf of the Director General of Police, Meghalaya which has been registered as Crl. MC (SH) No. 33 of 2013.

I have perused Para-4 of the petition wherein, it appears that the Director General of Police, Meghalaya has sought for an apology and also has taken steps to circulate the order to all the Police Stations with a direction that all officers of the Police Stations to appear before the Court whenever called for along with CD. Since he has taken steps and sought for an apology, the same is hereby accepted and his personal appearance is hereby dispensed with.

Mr. ND Chullai, the learned PP submits that in this instant case, the detenu could not be released as bail application filed by the petitioner before the Sub-Divisional Magistrate, Sohra was rejected vide order dated 26.03.13.

Mr. MG Ragharendra Kumar, the IO is present in the Court who submits that he has no intention to disregard the

Court's order as he was pre-occupied and he could not come when he was called for and sought for an apology from the Court.

Considering the submissions advanced by the IO, this Court has accepted his apology and dispensed him from personal appearance.

Mr. Akhil Ch. Baruah, Superintendent District Jail, Shillong submits that, it is the practice here in the state of Meghalaya that even after the detenu has been released from MPDA by High Court, bail order is required from a regular court.

After hearing the submissions advanced by the counsel for both the parties as referred to above and after going through the Judgement & Order passed by this Court vide order dated 6.12.12 and the released order dated 21.12.12 issued by the Government of Meghalaya, I do not find any reason to record that there is confusion in the order to release the detenu at that point of time. I also do not find any provision for moving bail application further before any subordinate court when the detention was already quashed by higher court. If this system is continuing here in the state of Meghalaya, definitely it is a wrong system and contrary to the provision of law. I observed that the learned counsel for the detenu instead of moving this bail application, he should have moved a petition for contempt of Court. I also could not understand under what provision of law, he had moved the bail application.

The detenu is in custody even after he has been released by this Court's order as referred to above which amounts to wrongful confinement.

It was also brought to the notice of this Court by the counsel for the detenu that the accused person was never produced before any Court since 21.12.12 which is also very irregular and against the principle of law and criminal justice system.

The respondent authorities are hereby directed to comply to the order of this Court passed on 6.12.12 and Government Notification dated 21.12.12 without any further delay.

The Sub-Divisional Magistrate, Sohra being an Executive Officer may not know each and every subject of law

but it is the duty of the Government counsel and the counsel for the petitioner to guide the Court in a proper manner.

It is further directed that all the respondents should be cautious in the near future with the Court's order and to comply the order in time.

Registry is further directed to send a copy of this order to all the respondents found mentioned in WP (CrI.)(SH) No. 5 of 2012.

With these observations and directions, this matter stands disposed of.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**CrI. MC(SH) No. 33 of 2013 in**  
**BA(SH) No. 35 of 2013**

**14.05.13**

In the light of the order passed in BA(SH) No. 35 of 2013, this Misc. Case also stands disposed of.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**Crl. Revn.P.(SH) No. 34 of 2013**

**14.05.13**

Judgment & Order delivered today, the 14.05.13 in open Court.

Judgment consists of 8(eight) pages.

Registry is directed to do the needful in the light of the said judgment and the matter stands disposed of.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**Crl. Revn.P.(SH) No. 35 of 2013**

**14.05.13**

Judgment & Order delivered today, the 14.05.13 in open Court.

Judgment consists of 5(five) pages.

Registry is directed to do the needful in the light of the said judgment and the matter stands disposed of.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**CrI. MC(SH) No. 29 of 2013 in**  
**CrI. Revn.P.(SH) No. 35 of 2013**

**14.05.13**

In the light of the judgment passed in CrI. Revn.P.(SH) No. 35 of 2013, this Misc. application also stands disposed of.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**Crl. MC (SH) No. 30 of 2013 in**  
**Crl. Revn.P.(SH) No. 34 of 2013**

**14.05.13**

In the light of the judgment passed in Crl. Revn.P.(SH) No. 34 of 2013, this Misc. application also stands disposed of.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**Cont. Case (C)(SH) No. 10 of 2013**

**14.05.13**

Heard Mr. L. Khyriem, the learned counsel for the petitioner.

Issue notice to the respondents to show cause as to why this instant petition should not be considered and why such other order or orders should not be passed as this Court may deem fit and proper.

Notice is made returnable within 2(two) weeks.

However, the learned counsel for the petitioner to take necessary steps to serve notice upon the respondents.

List this matter on 28.05.13.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**Crl. Appeal (SH) No. 7 of 2012**

**14.05.13**

Heard Mr. RB Pradhan, the learned counsel for the petitioner who submits that he needs further 3(three) weeks' time for preparation of paper book.

Prayer is allowed.

The learned counsel for the state is not present.

List this matter on 4.06.13.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**Crl. Revn. P.(SH) No. 67 of 2012**

**14.05.13**

The learned counsel for the petitioner is not present.

Mr. ND Chullai, the learned PP is present

Mr. GA Dkhar, the learned counsel is present before this Court who has been directed to file the vakalatnama by today itself with the Registry.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**Crl. Revn. P.(SH) No. 68 of 2012**

**14.05.13**

The learned counsel for the petitioner is not present.

Mr. ND Chullai, the learned PP is present

Mr. GA Dkhar, the learned counsel is present before this Court who has been directed to file the vakalatnama by today itself with the Registry.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**Crl. Revn. P.(SH) No. 69 of 2012**

**14.05.13**

The learned counsel for the petitioner is not present.

Mr. ND Chullai, the learned PP is present

Mr. GA Dkhar, the learned counsel is present before this Court who has been directed to file the vakalatnama by today itself with the Registry.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**AB(SH) No. 44 of 2013**

**14.05.13**

Heard Mr. S Sahu, the learned counsel for the petitioner who submits that, the instant FIR has been lodged without any rhyme or reason and it is an exaggerated fact, so pre-arrest bail may be granted.

On the other hand, Mrs. NG Shylla, the learned Addl. PP has strongly objected the bail application and submits that from the FIR, it appears that there was a rape, so investigating agency may be allowed to investigate the matter. The learned counsel further contended that if bail is granted, investigation may be hampered.

I have perused the CD produced by the learned Addl. PP.

After perusal of the CD and after hearing the submissions advanced by the learned counsel, I am not inclined to consider pre-arrest bail. Hence, pre-arrest bail is hereby rejected and the matter stands disposed of.

Registry is directed to return the CD to the learned Addl. PP immediately.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**WP(Cr1.)(SH) No. 332 of 2012**

**14.05.13**

None appeared on behalf of the petitioner.

Mr. S Sen Gupta, the learned counsel for the state is present.

List this matter in the usual course of time.

JUDGE

V. Lyndem.

