

Helen Sangneihpari  
D/o Kulthanga  
R/o Hunthar Veng, Aizawl.       .....       Accused/Applicant

Date of hearing	.....	20.5.2014
Date of Order	.....	22.5.2014

For the accused/applicant	.....	Mr.JC Lalnunsanga Advocate
For the respondent	.....	Mrs. Rose Mary,Addl.PP Ms.Rosy Asst.PP

Mr. J.C. Lalnunsanga, Ld. Counsel for the accused/applicant submitted that the accused has been charged with the offence of rape. According to the Ld. Counsel, the definition of rape u/s 375 IPC clearly means an act of sexual intercourse between man and woman/heterosexual intercourse. As such, there is no reason for the accused, a woman, to be arrested for the offence of rape. The Ld. Counsel also submitted that the accused is a permanent resident of Aizawl at Hunthar Veng where she is residing with her family. The accused is a weaver and the sole bread earner of her family. The Ld. Counsel also submitted that the accused has no criminal antecedents. The Ld. Counsel also argued that the accused being a woman, the legislature has given her special protection with regard to bail. The Ld. Counsel also submitted that since the statement of the accused have been recorded and she has been detained in judicial custody, it means that she is no

longer required for investigation. Accordingly, the Ld. Counsel prays to enlarge the accused on bail.

On the other hand, Mrs. Rose Mary, the Ld. Addl. PP objected to the prayer by submitting that the case is still at the stage of investigation and from the investigation done so far, it appears that the accused would have knowledge of the incident complained off which occurred in her house.

The Investigating Officer based her submissions on the case diary. She submitted that since the accused and the main suspect Vanlalvena appears to have close relation/affair, they feel that the accused/applicant would also have the knowledge of the actual culprit. With regard to the charge u/s 376 IPC, the Investigating Officer fairly admitted that it was a bonafide mistake, but practically, when the accused was arrested she was informed that the arrest was due to suspicion of she abetting the offence of rape.

3. The case is now at the stage of investigation which is purely within the domain of the investigating agency. As per record/Diary, the accused/applicant was arrested on 14.4.2014 @ 4:20pm. Though the arrest memo shows that the accused/applicant was arrested for the offence u/s 376(1) IPC, the case diary dt.14.4.14 No.XI recorded at 4:20pm shows that the accused/applicant was arrested for abetment in connection with the case despite denial from the accused. Accordingly, the mistake appearing in the arrest memo appears to be purely due to inadvertance and I am of the considered view that at this stage, the same would not by itself vitiate the investigation already done. No doubt, such a mistake is not proper and clearly irregular. The diary shows that the said accused have been remanded to judicial custody since 17.4.2014. Thereafter, there is no record of the accused/applicant being required for investigation and since then she continued to be detained in custody. There is no material to show that the accused is a habitual offender.

Considering the nature of the case, the stage of investigation, the accused being a woman more particularly in connection with the offence for which she was arrested, the absence of any record of her past antecedents, I am of the considered view that reasonable ground exist to release her on bail.

Accordingly, accused Helen Sangneihpari is released on bail to the satisfaction of the Ld. Chief Judicial Magistrate.

The bail conditions are:-

1. She shall attend court regularly,
2. She shall report herself to the investigating once every two weeks.
3. She shall make herself available to the investigating officer whenever required in connection with the investigation of this case.
4. She shall not commit any offence or similar offence to which she is suspected.
5. She shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to any Police Officer/Court
6. She shall not leave the State of Mizoram without the previous permission of the Court

Before parting, I must not fail to appreciate the uprightness of the Investigating Officer in fairly admitting the mistake committed by her while preparing the arrest memo.

With the above Order, application stands disposed off.

**Sd/- HELEN DAWNGLIANI**  
Additional District & Sessions Judge  
Aizawl Judicial District : Aizawl

**Memo No..... AD & SJ (A)/2014 : Dated Aizawl, the 22<sup>nd</sup> May, 2014**  
**Copy to :-**

1. Helen Sangneihpari through Counsel Mr. J.C. Lalnunsanga, Advocate.
2. PP/Addl. PP/APP, Aizawl.
3. Chief Judicial Magistrate, Aizawl.
4. DSP (Prosecution), District Court, Aizawl.
5. Registration Section.
6. Guard File.
7. Case record.
8. Calendar Judgment.

**P E S H K A R**