

Sr. No. 22
Reg. List

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CrIa(D) 67/2024
CrIM(1347/2024)

JAVID AHMAD MALLA ...Petitioner(s)/Appellant(s)

S/o MOHAMMAD KAMAL MALLAH

**R/O ARIN DARDIPORA TEHSIL & DISTRICT
BANDIPORA**

(TH. FATHER MOHAMMAD KAMAL MALLAH)

Through: Mr. B. A Tak, Advocate with
Mr. Sheikh Imtiyaz, Advocate

Vs.

**UNION TERRITORY THROUGH POLICE STATION
BANDIPORA** ...Respondent(s)

FIR NO. 103 OF 2023

U/S 23 & 39 ULAP ACT ¾ EXP SUB ACT.

Through: Mr. Maha Majid, Advocate vice
Mr. Mohsin Qadri, Sr. AAG

CORAM:

HON’BLE MR. JUSTICE RAJNESH OSWAL, JUDGE
HON’BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER
31.12.2024

1. This appeal is directed against the order dated 09.08.2024 passed by the court of learned Additional Session Judge (Designated Court under NIA Act) Bandipora (for short the “trial court”), whereby the interim bail granted to the appellant on health grounds vide order dated 01.07.2024, was cancelled on the ground that the appellant was not admitted in hospital.

2. The appellant has challenged the order impugned on the ground that the appellant had suffered 80% burn injuries and required specialized treatment, and taking into consideration the health condition of the appellant, he was granted interim bail vide order dated 01.07.2024. Thereafter the learned trial court cancelled the bail solely on the ground that appellant did not produce the record in respect of his treatment and also the concerned hospital authorities did not furnish any report to the trial court.
3. It is contended by the learned counsel appearing on behalf of the appellant that the appellant was operated on 28.08.2024 i.e; after the impugned order was passed and this clearly shows that the appellant is in precarious health condition. He has further argued that the appellant is still in hospital.
4. **Heard learned counsel for the parties and perused the record.**
5. Respondent has submitted the health status report dated 11.11.2024 issued by the Government Psychiatric Diseases Hospital, Kathidarwaza Rainwari, Srinagar, wherein it is mentioned as under:-

The patient namely Javid Ahmad Malla S/o Mohammad Kamal Malla R/o Arin Bandipora is admitted with us with provisional diagnosis of Catatonia underlying post traumatic stress disorder with major depressive episode. As per serial mental status examination and observation report from attending doctors and nursing staff, patient has persistent social withdrawal, mutism and posturing. Patient does not seem to be in touch with surroundings, does not follow commands and has inattention to bowel and bladder habits. The said patient is on oral

medications and has been put on modified ECT in view of no response to medication. Patient has received five sessions of modified ECT but has not shown adequate response. The patient is hemodynamically stable. However, as the patient is not amenable, his psychodiagnostic test could not be done. The patient needs continuous treatment and adherence to medications till adequate response is achieved.

6. Ms. Maha Majid, learned Assisting Counsel, appearing for the respondent has submitted the latest health report dated 04.12.2024 and same is taken on record.
7. As per the latest health status report, the appellant is under medical treatment at the Institute of Mental Health and Neuroscience, Government Psychiatric Diseases Hospital, Srinagar since 04.12.2024 and the guards stand deployed at the Hospital. It is evident that the health condition of the appellant is not good and he is admitted in hospital.
8. Without commenting upon the merits of the allegations leveled against the appellant but taking into consideration the ailment of the appellant, more particularly the fact that he was granted interim bail on health grounds by the learned trial court, we deem it proper to release the appellant on temporary bail on health grounds for a period of three months subject to the following terms and conditions:-
 - i. That the appellant shall furnish two sureties for an amount of Rs. 2.00 lacs each to the satisfaction of the learned trial court and one of the surety shall be the father of the appellant.
 - ii. That the father of the appellant shall ensure the presence of the

appellant before the trial court on each and every date of hearing.

iii. That the appellant shall not leave the territorial jurisdiction of the learned trial court without permission of the trial court.

iv. That the appellant shall not make any endeavor to contact any of the prosecution witnesses either physically or through any other mode.

v. That the appellant shall surrender before the Superintendent Jail concerned on 31st March 2025.

9. The order dated 09.08.2024 passed by the learned trial court is set aside as the learned trial court should have granted more time to the appellant to produce record in respect of his health.

10. The present appeal is accordingly *disposed of*.

(MOHD YOUSUF WANI)
JUDGE

(RAJNESH OSWAL)
JUDGE

SRINAGAR:
31.12.2024
“S.Nuzhat”