

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**Bail App No. 61/2024 c/w
CRM(M) No. 192/2024**

Date of Pronouncement: 02.12.2025
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Mohd. Talib Mir Age 58 Years
son of (late) Sh. Ghulam
Mohd. Mir resident of Village
Boon Bari Tehsil Batote,
District Ramban

.....Appellant(s)/Petitioner(s)

Through: Ms. Mandeep Reen, Advocate

Vs

1. Union Territory of Jammu &
Kashmir Through Senior
Superintendent of Police, Ramban.
2. Station House Officer
Police State Batote.
3. Maria Mukhtiyar
D/o Mukhtiyar Wani
R/o Bus Stand Ramban

..... Respondent(s)

Through: Mr. Eishaan Dadhichi, GA
Mr. Mayank Gupta, Advocate

Coram: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

ORDER(ORAL)

1. In the instant bail application, the petitioner herein states that he is alleged to have committed rape upon his daughter-in-law- respondent 3 herein resulting into registration of FIR bearing No. 0020/2024 dated 02.02.2024, in which FIR respondent 3 herein had alleged to have been subjected to rape and brutal assault at the hands of her husband and his family members, including her father-in-law, the petitioner herein, and although the matter landed before the concerned Police Station at the instance of the respondent 3 herein, but

the FIR (supra), did not provide any allegation of alleged rape by the petitioner herein, so much so, the statement of the respondent 3 herein got recorded by the Police belatedly and dissatisfied with the manner of registration of FIR as also the conduct of investigation therein, the respondent No. 3 submitted an application on 06.02.2024 before the S.S.P Ramban naming four persons therein the said application as accused persons including her husband and the present petitioner having stated therein the said application specifically that her father-in-law, the petitioner herein, committed rape upon her besides subjecting her to marital cruelty, inasmuch as, demanded dowry, while detailing out the date of incident on the intervening night of 31.01.2024 and 01.02.2024 and that upon on the receipt of the said application, the SSP concerned forwarded the same to Dy S. P, Headquarter with an endorsement to enquire, verify facts and report as per the contents and also made another endorsement to SHO, Police Station, Batote to register an FIR and submit a status report thereof and subsequently the petitioner herein maintained the instant bail application seeking bail in anticipation of his arrest besides filing the petition being CRM (M) No. 192/2024 for quashing of the FIR, on the premise that the impugned FIR has arisen owing to a matrimonial conflict between his son and respondent No. 3 herein, which conflict, however, was tried to be amicably resolved at various levels on various occasions including at Panchayat level, yet the same could not be resolved, resulting into filing of complaints and cross complaints by his son and the respondent No. 3 against each other, and during the course of the said matrimonial conflict, the respondent 3 herein made demands of money from the petitioner herein as also sought divorce/termination of her

marriage with the son of the petitioner and since the petitioner herein could not arrange either the said demanded money or the dissolution of the said marriage, the respondent 3 herein lodged a false and frivolous case against him besides his wife, daughter and son as a measure of harassment and though the petitioner herein initially came to be granted bail in anticipation of his arrest in the FIR in question by the Court of Principal Session Judge, Ramban, however, on account of the incorporation of additional offences therein the said FIR, the petitioner was compelled to approach this Court and that meanwhile, the matrimonial dispute between the respondent 3 herein and the son of the petitioner got resolved and out of the agreed amount of Rs. 20 lakhs, an amount of Rs. 8 lakhs came to be paid to the respondent 3 herein, however the respondent 3 despite that pursued the investigation in the FIR and remained adamant to get the petitioner herein and his other family arrested therein the FIR in question and that in furtherance thereof, the complainant-respondent No. 3 also got her statement recorded under Section 164 Cr.P.C on 07.03.2024 and that the respondent 3 herein deliberately and intentionally lodged false, motivated and a frivolous case against the petitioner not only to extract money from the petitioner but also to ensure the incarceration of the petitioner therein the said false case, therefore necessitating the filing of the instant application for seeking bail in anticipation of his arrest in the FIR in question also owing to the fact of his being innocent government employee as also the lone bread earner of his family.

2. Objections to the application have been filed by the official respondents as well as respondent 3 wherein the same is being opposed and its rejection is

being sought primarily on the ground that on the basis of the statements of the witnesses recorded during the course of investigation in the FIR in question under Section 161 Cr.P.C as also of the respondent 3 herein under Section 164 Cr.P.C, *prima facie*, offences covered in the FIR were found to have been committed by the petitioner herein.

Heard counsel for the parties and perused the record.

3. Before proceeding to advert to the respective pleadings of the parties, it would be pertinent to refer to the position of law in regard to the anticipatory bail and allied matters thereof laid down by the Apex Court in case titled as **“Naresh Kumar Mangla Vs. Anita Agarwal” reported in 2020 SCC online SC 1031** wherein following has been laid down:-

“92.1.... The application seeking anticipatory bail should contain bare essential facts relating to the offence, and why the applicant reasonably apprehends arrest, as well as his side of the story. These are essential for the court which should consider his application, to evaluate threat or apprehension, its gravity or seriousness and the appropriateness of any condition that may have to be imposed.

92.3.... While considering an application (for grant of anticipatory bail) the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence (including intimidating witnesses), likelihood of fleeing justice (such as leaving the country), etc.

92.4... Court sought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it.

Further the Apex Court in case titled as **“Anil Kumar Yadav Vs. State (NCT of Delhi) and Anr., reported in 2018 (12) SCC 129”**, has noticed at Para 15, followings:-

15. “As held in Puran Case [2016(6) SCC 338], while considering the question of grant of bail, court should avoid consideration of details of evidence as it is not a

relevant consideration. While it is necessary to consider the prima facie case, an exhaustive exploration of the merits of the case should be avoided.”

4. Keeping in mind the aforesaid position of law as also the pleadings of the parties inasmuch as the facts of the case noticed in the preceding paras, it is the positive case of the official respondents projected during the course of hearing of the instant application that the investigation in the case stands complete and that the offences alleged to have been committed by the petitioner have been found established. It is, however, not being denied or disputed by the official respondents that the petitioner herein did not cooperate with the investigation or else that the petitioner tried to win over the witnesses of the case, so much so, it is also not the case of the official respondents that the petitioner has any previous criminal antecedents or that there is likelihood of his jumping over the bail granted by this Court earlier in terms of order dated 01.01.2025. It is also not being alleged by the counsel for the official respondents that the petitioner violated any of the terms and conditions set out and imposed by this Court upon the petitioner in the aforesaid order dated 01.01.2025.
5. Having regard to the aforesaid position obtaining in the matter, this Court has no reason not to confirm the concession of grant of anticipatory bail to the petitioner, granted, as an interim order dated 01.01.2025.
6. Accordingly, the instant application is allowed and is ***disposed of*** making the order dated 01.01.2025 absolute with an additional condition therein that in the event, it comes to the knowledge of the prosecution that the petitioner hereafter is influencing the prosecution witnesses or tampered with the evidence collected during the course of investigation, the prosecution shall

be at liberty to seek cancellation of the bail granted to the petitioner as above
in appropriate proceeding before the appropriate forum.

7. *Disposed of.*

CRM(M) No. 192/2024

1. List on 16.12.2025.

(Javed Iqbal Wani)
Judge

Jammu

02.12.2025

Rahul Sharma

Whether the order is reportable: Yes

Whether the order is speaking: Yes

