

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

(Through Virtual Mode)  
**From Srinagar Wing**

**Bail App 149/2025**

*Reserved on: 11.11.2025*  
*Pronounced on: 17.11.2025*  
*Uploaded on: 17.11.2025*

*Whether the operative part or full  
judgment is pronounced: **Full***

Sunil Kumar Sharma

... Petitioner/appellant(s)

Through: Mr. Amandeep Singh, Advocate  
Vs.

UT of J&K through Principal Secretary to Govt.  
Home Department, Jammu and others

... Respondent(s)

Through: Mr. Vinod Sharma, Advocate for R3

**CORAM:**

**HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

**ORDER**

1. The petitioner, who is facing trial for offences punishable U/S 376, 306, 506 and 201 IPC and Section 67 of the IT Act, had moved an application for bail before the trial court. The said application came to be rejected vide order dated 15.05.2025, compelling him to approach this Court seeking enlargement on bail. The primary contention urged is that the prosecution's case is inherently false. According to the complainant, he was informed by his wife one month after the demise of their daughter that the petitioner had been blackmailing and harassing the deceased.

However, during the course of the trial, the complainant's wife has deposed that she disclosed this information to her husband only four months after their daughter's death. This material inconsistency, it is submitted, undermines the very foundation of the prosecution's case. It is further submitted that the prosecution's story is riddled with contradictions and that when the petitioner earlier sought bail from this Court, the application was declined at a nascent stage of the proceedings. Now, with the trial underway and material witnesses already examined, significant discrepancies have emerged in their testimonies, thereby weakening the prosecution's version.

2. The petitioner contends that, being presumed innocent until proven guilty, he is entitled to the concession of bail. It is urged that the trial court rejected bail on untenable and flimsy grounds. According to the petitioner, the FIR has been registered merely on assumptions and conjectures without any substantive evidence to show that he intimidated or harassed the deceased. Both parents of the deceased have admitted that the Punjab Police informed them that their daughter's death was accidental and that there was no indication of suicide. Once the theory of suicide stands negated, the allegation that the petitioner abetted suicide or used intimate photographs to coerce the deceased into sexual acts, it is argued, collapses entirely.
3. The petitioner, who has remained in custody since 14.03.2023, submits that he is willing to furnish adequate bail and that his

continued incarceration serves no useful purpose for the prosecution.

4. As per the police report, the genesis of the FIR lies in the fact that the victim did not return home on 20.08.2022 after leaving for her college at Samba. A missing report was lodged the same day at Police Station Samba. On the following day, her dead body was recovered from a railway track in Sirhind Samrala, District Ludhiana, Punjab, pursuant to which the GRP Samrala initiated proceedings under Section 174 CrPC to ascertain the circumstances of death. The deceased, it was noted, had been travelling by train from Kathua to Haridwar. During the inquest, statements of witnesses were recorded, and the post-mortem examination was conducted. Meanwhile, the victim's father submitted multiple applications before police authorities and the Court seeking an inquiry into the cause of death. Ultimately, on 1 March 2023, he filed a petition under Section 156(3) of the CrPC before the Chief Judicial Magistrate, Samba, seeking registration of an FIR.
5. It is lastly submitted that the petitioner has already been charged and the trial is in progress, with most of the material witnesses having been examined, thereby diminishing any apprehension of tampering with prosecution evidence.
6. The complainant, who has also been arrayed as a party respondent, has filed objections opposing the bail application. It is contended that although the mother and father of the deceased have been

examined, several other material witnesses are yet to be recorded. Therefore, the petitioner cannot seek bail at this crucial stage. It is further submitted that the Punjab Police had retrieved the call details of the deceased, from which the complainant came to know that the petitioner had been harassing and intimidating the deceased. The complainant asserts that the petitioner's mobile phone was seized and that he had deleted its data with the intent to evade liability. The fact that the petitioner has been charged with offences under the IT Act, according to the complainant, reinforces this allegation. It is argued that there are no contradictions in the witnesses' testimonies and that the offence is heinous in nature, constituting a grave crime against a woman. The conduct of the petitioner, it is submitted, has devastated the life of a young girl and her family, and granting bail at this stage may embolden similar crimes and adversely affect societal interest. The official respondents have also filed their response, reiterating the submissions made by the complainant and opposing the grant of bail.

7. Ld. counsel for the petitioner, reiterating the submissions pleaded in the application, argued that once the evidence led by the prosecution regarding the offence under Section 306 IPC is found to be weak, the case against the petitioner for offences under Sections 376/506 IPC also does not survive. With respect to the allegations under the IT Act, it is contended that though the petitioner's mobile phone was seized, nothing incriminating has

been recovered except some photographs which, even otherwise, do not establish that the petitioner had indulged in blackmailing the deceased. It is urged that the prosecution case itself reveals that the deceased had independently procured a ticket for Haridwar and that the call detail records show the last telephonic conversation between the petitioner and the deceased took place in January 2022, whereas the deceased passed away in August 2022. Thus, the allegation that the petitioner coerced, intimidated, or instigated the deceased to commit suicide, according to the petitioner, is wholly untenable.

8. **Per contra**, the counsel for the respondents vehemently argued that, having regard to the gravity of the allegations levelled against the petitioner, he does not deserve the concession of bail. It is submitted that if the petitioner is enlarged on bail, there exists a strong likelihood of his influencing the remaining prosecution witnesses. Counsel further submitted that the trial is proceeding before the competent court without any legal impediment and that the trial court has rightly declined bail, considering the nature of the crime. It is urged that since the police agency did not take timely action, the complainant was compelled to approach the court to secure registration of the FIR. The petitioner's earlier bail application having already been rejected by this Court vide order dated 13.12.2024, and there being no change in circumstances as per the respondents, the present application does not merit consideration.

9. In rebuttal, counsel for the petitioner argued that although, at the stage of considering bail, the Court ordinarily refrains from examining the merits of the case in detail, such restraint does not imply that the petitioner should remain incarcerated for the entire duration of the trial, especially when the prosecution witnesses examined so far have materially contradicted the prosecution's case. It is submitted that the delay in lodging the FIR, coupled with the failure of the investigating officer to ascertain the outcome of the inquest proceedings initiated by the Punjab Police upon the death of the deceased, demonstrates that the investigation was tainted. According to the petitioner, his continued detention is based on assumptions and presumptions without substantive evidence.
10. Having given thoughtful consideration to the rival submissions, it is evident that this Court, vide order dated 13.12.2024, had declined the petitioner's bail application primarily on the ground that charges had only recently been framed on 19.11.2024 and no prosecution witness had been examined at that stage. In such circumstances, this Court was not inclined to grant bail. The petitioner now contends that circumstances have changed as crucial prosecution witnesses have since been examined and their testimonies prima facie weaken the prosecution's case. Therefore, the mere rejection of an earlier bail application does not bar the petitioner from filing a fresh application before the trial court.

11. This Court, while declining bail earlier, had relied on the judgment in *X v. State of Rajasthan, 2024 INSC 909*, wherein it was observed that in serious offences such as rape, murder, and dacoity, once trial commences and the prosecution begins examining its witnesses, the Court, whether the Trial Court or the High Court, ought to be reluctant in entertaining bail applications. The Supreme Court noted disturbing patterns wherein bail is often granted either immediately after framing of charges and just before examination of the victim, or after recording the victim's evidence by placing undue emphasis on minor discrepancies. It held that both practices are improper and that once the trial begins, it should proceed to its logical conclusion.
12. The petitioner, however, relies on *Bhadresh Bipin Bhai Sheth v. State of Gujarat, AIR 2015 SC 3090*, where the Supreme Court held that limitations under Section 437 CrPC cannot be imported into Section 438 CrPC and that the provision must be accorded full effect. The Court clarified that an accused is not required to establish a "special case" for the grant of bail and that the exercise of discretion must be judicious, depending upon the facts of each case, without rigid formulas.
13. Further reliance is placed on *Ajwar v. Waseem & Another, 2024 (6) SCALE 461*, wherein the Supreme Court, in para 26, held that while considering bail in serious criminal matters, courts must evaluate factors such as the nature of accusations, manner of commission of the alleged offence, gravity of the charge, role

attributed to the accused, criminal antecedents, probability of tampering with witnesses or repeating the offence, likelihood of absconding, possibility of obstructing or evading justice, and the overall desirability of granting bail.

14. In ***Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav***, (2004) 7 SCC 528, while dealing with the issue of successive bail applications, the apex court has held that an accused has the right to file successive applications for the grant of bail. However, the Court entertaining such applications is duty-bound to consider the reasons and grounds on which the earlier bail application was rejected. In such situations, the Court must also record the fresh grounds that persuade it to take a view different from the one taken earlier. It has been emphasised that reason is the lifeblood of the judicial process, and therefore any order passed by a court must be supported by cogent reasoning satisfying the fundamental tenets of the judicial system. Although it is equally well-settled that at the stage of considering bail, the merits of the case are not to be examined in detail, this does not absolve the Court of the duty to indicate, even briefly, the prima facie reasons for granting bail. Reference in this regard may be made to ***Puran v. Rambilas***, (2001) 6 SCC 338.

15. Guided by the above legal position, I now proceed to examine the prosecution's case for the limited purpose of disposal of this bail application. It is undisputed that the complainant lodged a missing person's report with the SHO, Police Station Samba, on

20.08.2022 concerning his daughter (the deceased). On 21.08.2022, the dead body of the deceased was recovered by the GRP, Samrala, Punjab, and the complainant admittedly received information regarding her death from the said agency. Upon being apprised, Police Station Samba deputed a police party to collect relevant information, and the body was thereafter handed over to the legal heirs. It is also an admitted position that the GRP, Samrala, initiated inquest proceedings under Section 174 CrPC, during which it emerged that the deceased had boarded the Kathua–Haridwar train on 20.08.2022 and was travelling alone. The FIR came to be registered at Police Station Samba only pursuant to an order dated 13.03.2023 passed by the court on an application filed by the complainant, wherein it was alleged that since January 2022 the petitioner had been following the deceased, compelling her to engage in physical relations with him, confronting her on the way from her home to the village, and had collected her intimate photographs with threats to share them with his friends and on social media. The complainant claimed that he approached the police on 01.03.2023 seeking an inquiry and registration of a case, but the police failed to act, leading him to seek recourse before the Magistrate. Based on the Magistrate's directions, an FIR came to be registered under Sections 366, 376, 506, and 201 IPC and Section 67 of the IT Act. During the investigation, the offence under Section 366 IPC appears to have

been dropped, while the offence under Section 306 IPC has been added.

16. During the course of hearing, learned counsel for the contesting respondent did not rebut the petitioner's contention that both the father and the mother of the deceased had categorically stated in their testimony before the trial court that the GRP personnel had informed them that the deceased had not committed suicide but had died accidentally, having allegedly slipped while sitting on the steps near the exit door of the train. No record has been placed on file by the prosecution to explain the outcome of the inquest proceedings initiated by the GRP, Samrala, Punjab. The prosecution has alleged that the deceased was being harassed, followed, and blackmailed by the petitioner, who was purportedly in possession of her intimate photographs and was sexually exploiting her. It has also been noticed that during cross-examination, the complainant stated that the petitioner was responsible for the deceased's death. However, the FIR itself was registered after an inordinate delay. While the prosecution asserts that the petitioner was in constant contact with the deceased and subjected her to exploitation, learned counsel for the petitioner has pointed out that the call detail records show the last contact between them occurred in January 2022, whereas the death took place on 21.08.2022. It is therefore contended that there exists no proximate nexus between the alleged acts attributed to the petitioner and the death of the deceased. According to the

petitioner, once suspicious circumstances emerge suggesting that the deceased may have died an accidental death rather than by suicide, the prosecution's theory of abetment to suicide on account of persistent sexual exploitation becomes doubtful. Consequently, although the accusations against the petitioner are grave, the material relied upon by the prosecution, at this stage, does not appear to be legally sufficient to fasten criminal liability upon him. On this premise, the petitioner asserts that, being presumed innocent until proven guilty, his continued incarceration, especially when the prosecution's case is shrouded in doubt, would violate the very foundations of the criminal justice system.

17. Considering the aforesaid material highlighted by the petitioner, and in the absence of any plausible rebuttal from the respondents, this Court is persuaded to hold that the petitioner has succeeded in establishing a strong prima facie case for the grant of bail. He continues to enjoy the presumption of innocence during trial, and from the testimony of material witnesses examined so far, that presumption stands reinforced. In such circumstances, his further detention would not advance the cause of justice. On the strength of the available record, the petitioner cannot be denied the concession of bail, particularly when he has demonstrated sufficient grounds warranting such relief besides also there is no legal impediment to the granting of bail in such cases.
18. The respondents have argued that if the petitioner is released on bail, he may prevail upon or influence the remaining witnesses.

This contention appears to be raised only to dissuade the Court from exercising its discretion in favour of the petitioner, as no material has been produced to substantiate such an apprehension. In any event, the concession of bail remains subject to cancellation should the petitioner be found interfering with the trial or obstructing its course. In view of the change in circumstances since the rejection of his earlier bail application and the prima facie weaknesses appearing in the prosecution's case, the petitioner has clearly made out a case for the grant of bail.

19. Resultantly, this application is allowed. The petitioner is directed to be released on bail upon furnishing a surety bond in the amount of Rs. One lac. and a personal bond of the like amount, subject to any further conditions that the trial court may deem appropriate for the smooth conduct of the trial. The application stands disposed of.
20. A copy of this order shall be forwarded to the trial court for compliance. Nothing stated hereinabove on the merits of the prosecution case shall have any bearing on the proceedings, and the trial court shall be guided by its own assessment, discourse, and judicial wisdom.

(Sanjay Parihar)  
Judge

SRINAGAR  
17.11.2025  
*N Ahmad*

Whether the order is speaking: No  
Whether the order is reportable: No