

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

Bail App No. 187/2024

Reserved on: 18.09.2025

Pronounced on: 10 .10.2025

Tarun Sharma aged 40 years
S/o Dev Raj Sharma,
R/O East Mand
Tehsil and District Udhampur
Presently lodged in District Jail Udhampur
Through mother Smt. Vijay Lakshami aged
60 years wife of Shri Dev Raj Sharma
R/O East Mand
Tehsil and District Udhampur

.....Petitioner(s)

Through :- Mr. Sunil Sethi, Sr. Adv. with
Mr. Vishal Mahajan, Adv.
Mr. Sanzy Gupta, Adv.

v/s

1. Union Territory of J & K
Through Incharge / SHO
Police Station Rehmbal
District Udhampur.
2. Superintendent,
District Jail Udhampur

.....Respondent(s)

Through :- Mr. Sumeet Bhatia, GA

CORAM: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

JUDGMENT

1. Petitioner through the medium of this bail application under Section 483 of Bharatiya Nagarik Suraksha Sanhita 2023,(BNSS) seeks to be admitted to bail in a case arising out of FIR No. 248/2023 registered at Police Station Rehmbal, concerning offences punishable under Sections 302 of the Indian Penal Code (IPC).

2. The genesis of the case lies in the suspicious death of one Amit Gupta, son of Kuldeep Kumar Gupta and resident of Shakti Nagar, Udhampur, on 20.10.2022. Initially, inquest proceedings under Section 174 of the Criminal Procedure Code were initiated. Based on the findings during the course of the inquiry, the police registered FIR No. 248/2023, and subsequent investigation led to the petitioner being named as the accused.
3. As per the prosecution's case, the petitioner and the deceased were in regular contact, as evidenced by call detail records and mobile phone messages. On the day of the incident, it is alleged that the deceased, on the request of the petitioner, went near the petitioner's shop and parked his vehicle nearby. Later in the evening, the deceased again went to meet the petitioner.
4. During this time, one Paramjit Singh (now deceased) is alleged to have witnessed the petitioner involved in a quarrel with an unidentified individual, which the prosecution has relied upon to connect the petitioner to the alleged offence. Based on these circumstances and other material collected during investigation, the petitioner was arrested, and a charge-sheet under Section 302 IPC was filed against him. The petitioner had earlier filed a bail application before the Court of the Learned Additional Sessions Judge, Udhampur, which came to be rejected vide order dated 06.06.2024. He now seeks bail on the grounds of false implication, asserting that he is innocent and has been wrongly arraigned in the case.
5. The prosecution has cited a total of 29 witnesses, of whom only 5 have been examined so far, and are stated to be the material witnesses. Importantly, the key witness Paramjeet Singh, who was to support the "last-seen-together" theory, passed away prior to recording of his

testimony. The remaining witnesses yet to be examined are stated to be either formal or peripheral in nature.

6. The petitioner submits that the evidence of the already examined material witnesses does not disclose any incriminating material against him. It is further contended that the Investigating Officer (IO) failed to establish the specific location of the petitioner's shop in proximity to the crime scene and could not satisfactorily explain why the deceased had parked his vehicle on the opposite side of the road, raising serious doubts about the coherence and credibility of the prosecution's theory.
7. It is also pointed out that the learned trial court, while rejecting the petitioner's bail application vide order dated 06.06.2024, relied only on circumstantial evidence, without any direct or substantive material connecting the petitioner to the offence. Moreover, the Court did not accept the last-seen theory, as the deceased could not be identified with certainty by PW Paramjeet Singh, and no motive for the offence has been established by the prosecution.
8. The petitioner asserts that he has been wrongly and falsely implicated, and there is no cogent evidence of his involvement in the alleged act. Accordingly, he seeks bail on the settled principle of "bail, not jail", particularly given the nature of the evidence on record and the protracted duration of trial proceedings.
9. *Per Contra*, according to the Respondents, on the intervening night of 19th and 20th October 2022, the police party of Police Post Tikri, while on routine patrolling duty in the area of Mand, encountered one Sumit Gupta at approximately 02:10 AM. He informed the police that his brother, Amit Gupta, had left home the previous evening around 5:30 PM on his Scooty

bearing registration number JK14D/4010 and had not returned. He further stated that after receiving no response to repeated calls to the deceased's mobile number, the family began searching for him. During this joint search with police, the Scooty of the deceased was found abandoned near a bridge at Prince Cappery, Mand. Subsequently, the deceased was found lying unconscious in the nallah beneath the bridge and was immediately taken to District Hospital, Udampur, where he was declared brought dead.

10. Given the suspicious circumstances of the death, inquest proceedings under Section 174 Cr.P.C. were initiated vide DDR No. 37 dated 20.10.2022, and the enquiry was entrusted to PSI Abdul Satar. During the inquest, the Investigating Officer inspected the scene of occurrence, prepared the site plan, and seized various articles from the spot, including a mobile phone, a red chappal, blood-stained and plain clay (marked Exhibits A and A-1), and the Scooty of the deceased. The clothes of the deceased, his mobile phone, and a poly pouch containing suspected poppy-straw-like substance were also seized.
11. Further, on 21.10.2022, the Mobile FSL Team of District Udampur visited the site and lifted hair strands from nearby bushes and a sharp-edged stone weighing approximately 1.5 kg, suspected to be the weapon of offence. These were seized and marked as Exhibit C. Statements of several witnesses were recorded under Section 175 Cr.P.C.
12. During the investigation, Mr. Sumit Gupta stated that his brother had probably gone to meet his friend, the petitioner, Tarun Sharma, a resident of Mand, Udampur. He further stated that the deceased had been last seen near the shop of the petitioner and that the two were known to have had monetary disputes. Sumit Gupta alleged that the petitioner owed his brother

approximately ₹10,000–₹12,000 in connection with the purchase of poppy straw. Based on these disclosures and circumstantial evidence, the inquest was converted into a formal FIR under Section 302 IPC.

13. During the investigation, the petitioner was arrested and, during custodial interrogation, made a confessional statement admitting to his involvement in the murder. The petitioner stated that both he and the deceased were drug addicts, and that the deceased had been pestering him for repayment of money that had been given for procuring poppy straw. Unable to repay the amount or supply the substance, the petitioner, out of frustration, lured the deceased to his shop under the pretext of collecting medicine. After obtaining two packets of condoms from the deceased, he took him near the bridge and deliberately pushed him into the nallah with the intention to kill.
14. The police also seized the mobile phone of the petitioner from his shop, which showed that 15 to 20 calls had been made to the deceased on the day of the incident. The Call Detail Records (CDRs) of both the petitioner and the deceased corroborated frequent communication between them. Statements of witnesses including Paramjeet Singh and Deepak Dubey were recorded under Section 164 Cr.P.C., affirming that the deceased had gone to meet the petitioner on the relevant day. The post-mortem report confirmed head injuries as the cause of death, consistent with the prosecution's version. The FSL report further supported the investigative findings.
15. Upon completion of investigation, a chargesheet under Section 302 IPC was filed before the Ld. learned trial court on 24.01.2023. The Sessions Court framed charges on 10.08.2023, to which the petitioner pleaded not guilty, and the trial is currently ongoing. The Respondents submit that the

allegations against the petitioner are supported by multiple pieces of circumstantial evidence, including his own admission, forensic evidence, and corroborative witness statements.

16. The Respondents contend that the petitioner is involved in a grave and heinous offence punishable with death or life imprisonment. The learned Sessions Court has already rejected a previous bail application filed by the petitioner vide order dated 06.06.2024, after considering the seriousness of the offence, the stage of the trial, and the available evidence. It is argued that releasing the petitioner on bail at this stage would pose a risk of tampering with the evidence or influencing key witnesses who are yet to be examined.
17. Accordingly, the Respondents oppose the present application for bail and pray that the same be dismissed in the interest of justice, public safety, and the integrity of the ongoing trial.
18. Heard learned counsel for both the sides and perused the case file.
19. Upon considering the submissions of both parties and perusing the material on record, including the charge-sheet, forensic reports, post-mortem report, and the earlier bail rejection order dated 06.06.2024, this Court is called upon to determine whether the petitioner is entitled to bail under Section 483 of Bharatiya Nagarik suraksha sanhita 2023,(BNSS). in a case registered under Section 302 IPC. It is well-settled that the discretion to grant bail in serious offences, especially involving allegations of murder, must be exercised with great caution.
20. The Hon'ble Supreme Court in ***State of Rajasthan v. Balchand (1977) 4 SCC 308*** laid down that "bail is the rule and jail the exception," but this principle cannot be applied in isolation when the offence alleged is

punishable with death or life imprisonment. In ***State of U.P. v. Amarmani Tripathi (2005) 8 SCC 21***, the Apex Court clarified that while deciding a bail application, the Court must consider several factors, including the ***nature and gravity of the accusation, the severity of the punishment, the nature of the evidence, the possibility of tampering with evidence or influencing witnesses, and the likelihood of the accused fleeing from justice.***

21. The prosecution alleges that the petitioner, Tarun Sharma, is accused of being involved in the commission of the offence of murder of Amit Gupta, the deceased, who was last seen in the company of the petitioner on 19.10.2022. This fact forms the basis for the investigation and subsequent proceedings against the petitioner. The body of the deceased was recovered in the early hours of 20.10.2022 from a nallah near Prince Cappery, Mand. The investigation revealed that the petitioner and the deceased were in regular contact and shared a background involving drug use. The prosecution case is that the petitioner, being under pressure to repay a monetary debt of ₹10,000–₹12,000 owed to the deceased, lured him to his shop, took him near a bridge under the pretext of giving medicine, and deliberately pushed him into the nallah. A confessional statement to this effect was allegedly made by the petitioner during custodial interrogation. This is supported by call detail records (CDRs) indicating frequent communication, forensic evidence including hair strands and a blood-stained stone recovered from the scene, and the post-mortem report confirming head injuries consistent with the alleged mode of assault.
22. The charge under Section 302 IPC has been framed, and the petitioner has pleaded not guilty. Out of 29 witnesses cited by the prosecution, 18 have

been examined so far as submitted by learned counsel Mr. Bhatia appearing on behalf of respondent.. Notably, the key witness supporting the "last seen" theory, Paramjeet Singh, passed away before his evidence could be recorded. The petitioner argues that there is no direct evidence, the investigation is flawed, and that he has been falsely implicated. He relies on the principle of "bail, not jail" and the alleged absence of incriminating evidence from the material witnesses examined.

23. Moreover, at the stage of considering bail, this Court is not expected to evaluate the probative value of evidence in detail or conduct a mini-trial.

The Hon'ble Apex Court has held in ***Niranjan Singh v. Prabhakar Rajaram Kharote* (1980) 2 SCC 559**, "the mere fact that evidence is circumstantial does not automatically entitle the accused to bail if the material collected suggests prima facie involvement in a serious offence."

In the present case, the prosecution has primarily relied upon confessional disclosures, forensic recoveries, call detail records (CDRs), and corroborative statements of witnesses recorded under Section 164 of the Code of Criminal Procedure.

24. In ***Puran v. Rambilas* (2001) 6 SCC 338**, the Hon'ble Supreme Court held that "if there exists a reasonable apprehension of the accused tampering with evidence or influencing witnesses, bail should be denied. Considering that the trial is ongoing and several material witnesses are yet to be examined, such apprehension cannot be ruled out."

25. While the petitioner pleads delay in trial, the same must be weighed against the seriousness of the charges and the stage of the proceedings. In ***State of Bihar v. Amit Kumar* (2017) 13 SCC 751**, the Hon'ble Supreme Court held that in ***heinous offences, the mere fact of delay cannot override***

public interest or the interests of justice. Further, in **Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav (2004) 7 SCC 528**, the Hon'ble Supreme Court reiterated *that the right to personal liberty must be balanced against the need to ensure fair and unhampered trial.*

26. The core contention urged on behalf of the petitioner by Sh. Sunil Sethi learned senior counsel is that the case rests on circumstantial evidence, the key "last seen" witness has died, and the evidence already recorded does not point conclusively to the petitioner's involvement.
27. However, upon examination and analysis, it is evident that the learned trial court has rightly applied the settled legal principles governing the framing of charge and prima facie evaluation of material. At the stage of charge and, equally, at the stage of deciding bail in a case of serious offence, the Court is not required to undertake a meticulous appreciation of evidence or test its admissibility or sufficiency for conviction.
28. In the recent decision of **Ishwarji Nagaji Mali v. State of Gujarat and Anr., 2022 (6) SCC 609**, the Hon'ble Supreme Court examined the legality of a High Court order granting bail to an accused charged under Section 302 read with Section 120B of the Indian Penal Code. The Apex Court held that *the High Court erred in granting bail without a proper appraisal of the gravity of the offence, the nature and quality of evidence collected during the investigation, and the settled judicial principles governing bail. The Court noted that the High Court had primarily relied on the accused's deep societal roots and the absence of any apprehension of his fleeing or tampering with evidence.* Such factors were judged insufficient for the purpose of granting bail in a serious crime like murder especially one involving an alleged conspiracy to kill one's spouse.

29. The Apex Court reiterated that while considering bail applications in serious offences, especially involving criminal conspiracy and premeditated murder, the courts must examine factors beyond just the likelihood of the accused absconding. The judgment extensively referred to the settled legal position as laid down in various decisions. In ***Gudikanti Narasimhulu v. Public Prosecutor, High Court of Andhra Pradesh (1978) 1 SCC 240***, it was held that *the nature of the charge, nature of evidence, and likelihood of the accused thwarting the course of justice are vital considerations*. In ***Prahlad Singh Bhati v. NCT of Delhi (2001) 4 SCC 280***, the Hon'ble Court emphasized that the jurisdiction to grant bail must be exercised judiciously and not arbitrarily, and highlighted several factors including the gravity of the offence, severity of punishment, risk of tampering with evidence, and the larger public interest.
30. Similarly, in ***Ram Govind Upadhyay v. Sudarshan Singh (2002) 3 SCC 598***, it was held that judicial discretion in granting bail must not be exercised whimsically, especially in heinous offences. In ***Kalyan Chandra Sarkar v. Rajesh Ranjan (2004) 7 SCC 528***, it was reaffirmed that while detailed evidence evaluation is not required at the bail stage, the court must still record prima facie satisfaction. In ***Prasanta Kumar Sarkar v. Ashis Chatterjee (2010) 14 SCC 496***, the Court held that mechanical grant of bail reflects non-application of mind, and outlined eight crucial factors to be considered, including reasonable grounds for belief in guilt, nature of evidence, and possibility of justice being thwarted.
31. In ***Neeru Yadav v. State of U.P. (2016) 15 SCC 422***, it was held that courts must not casually ignore criminal antecedents of the accused and must remain vigilant in heinous offences. The same principles were

reaffirmed in **Anil Kumar Yadav v. State (NCT of Delhi) (2018) 12 SCC 129**, where the Hon'ble Supreme Court reiterated that nature and seriousness of the offence, possibility of the accused fleeing or tampering with evidence, and societal impact of granting bail must all be considered. In **Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana (2021) 6 SCC 230**, the Court observed that even though a detailed analysis of evidence is not required at the bail stage, the court must apply its judicial mind and record brief but cogent reasons. The liberty of the accused must be weighed against the interest of society and the rights of victims.

32. In applying the above principles, the Hon'ble Supreme Court found that the High Court had erred in granting bail to the accused, who was alleged to have conspired to murder his wife.
33. Having perused the material on record, this Court finds that the Learned Sessions Judge has rightly taken note of the prosecution's reliance on a coherent and prima facie credible chain of circumstantial evidence. The call detail records and retrieved mobile messages indicate continuous communication between the petitioner and the deceased on the day of the incident. Furthermore, the fact that the deceased was asked by the petitioner to bring specific items, including his mother's medicine, later recovered from the petitioner's shop pursuant to his disclosure adds weight to the prosecution's case. These circumstances are further supported by the statements of key prosecution witnesses, namely Paramjeet Singh and Deepak Dubey, who corroborated the "last seen" theory, placing the deceased in the company of the petitioner shortly before her death. Although witness Paramjeet Singh has since passed away, his prior statement recorded under Section 164 Cr.P.C. retains its evidentiary value

at this stage. Additionally, the post-mortem report, seizure memos, and forensic evidence such as the recovery of hair strands and a blood-stained stone from the scene of the crime further connect the petitioner to the alleged incident. In view of the above, this Court is of the opinion that there exists sufficient material on record to justify the findings recorded by the Sessions Court at this stage.

34. The Hon'ble Supreme Court in *Satpal Singh v. State of Haryana* (2010) 8 SCC 714 and more recently in *Mahipal v. Rajesh Kumar* (2020) 2 SCC 118 has held ***“that in murder cases based on circumstantial evidence, if the prosecution has established the "last seen together" circumstance along with corroborative material and the accused fails to offer a plausible explanation, bail ought not to be granted.”***
35. In the present case, the petitioner has not offered any credible explanation regarding the circumstances under which he parted company with the deceased. On the contrary, his custodial statement contains a confession detailing the manner in which he allegedly pushed the deceased into the nallah after a dispute regarding a monetary transaction and drug procurement. **According to the prosecution, the motive behind the offence stemmed from a financial dispute between the petitioner and the deceased, wherein the deceased had allegedly paid an amount of ₹10,000 to ₹12,000 to the petitioner for procurement of poppy straw. The petitioner, being unable to return the money or deliver the contraband, is said to have committed the crime out of frustration and to escape liability. This monetary dispute is not only substantiated by the statements of the deceased's brother, Sumit Gupta, but is also corroborated by the petitioner's own confessional disclosure, thus**

lending coherence and a plausible motive to the prosecution's version.

Though the admissibility of such confession is a matter for trial, it forms part of the larger chain of incriminating circumstances which cannot be ignored at the stage of bail. Further, as rightly noted by the learned Sessions Court, the motive for the crime namely the accused's failure to return money owed for the procurement of contraband adds coherence to the prosecution narrative.

36. It is a settled position that when there is prima facie material suggesting the involvement of the accused in a serious offence, bail may be denied to prevent the risk of tampering with evidence or influencing witnesses. In this case, several key witnesses remain to be examined. The trial is ongoing, and releasing the petitioner on bail at this critical stage may prejudice the proceedings. The Court concludes that the order passed by the learned Session Judge denying bail is not unlawful, irrational or a failure to apply judicial reasoning. On the contrary, the reasoning therein is cogent, legally sound and supported by judicial precedents.
37. Reliance is placed upon a judgment passed by this Court, in case titled ***Rajeev Sharma v. State of J&k and Ors. Bail App No. 142/2019 decided on 10.11.2022*** in which it was held as follows;

“ Law is no longer res-integra that gravity and seriousness of offence is a relevant consideration for grant or refusal of bail. In the case in hand, the trial is in progress and if any finding or view is expressed by this court regarding the credibility and evidentiary value of the witnesses examined so far it would seriously prejudice the prosecution case.”

38. In the present case, the petitioner has not offered any credible explanation as to how or when he parted company with the deceased. His custodial statement while its admissibility is a matter for trial describes the manner in

which the alleged offence was committed and fits within the broader evidentiary matrix. Moreover, the recovery of the articles from the petitioner's shop at his instance, corroborated by CDRs and the post-mortem findings, strengthens the prosecution's case.

39. While the petitioner has raised the issue of delay in the trial, the same cannot be viewed in isolation. In **State of Bihar v. Amit Kumar (2017) 13 SCC 751**, it was held that “*delay, especially in cases involving serious offences, cannot by itself be a ground for bail.*”
40. In the present case, no such delay exists, as evidenced by the fact that 18 out of 29 prosecution witnesses have already been examined, clearly indicating that the trial is progressing in a diligent and timely manner. The prosecution has demonstrated sustained efforts to conclude the trial. Given the seriousness of the offences involved, the stage of the trial assumes great significance in the bail determination. The argument of delay is therefore factually and legally unsustainable. Granting bail at this stage would not only be premature but may also impede the proper completion of the trial, especially since several material witnesses are yet to be examined.
41. It is pertinent to note that mere passage of time or duration of incarceration during trial cannot, in isolation, constitute sufficient ground for granting bail, particularly in cases involving grave and heinous offences punishable with death or life imprisonment. The seriousness of the charges under Section 302 IPC, the nature of the evidence relied upon by the prosecution including forensic material, call detail records, recovery memos, and the petitioner's own custodial disclosure all weigh heavily against the petitioner's plea for liberty at this juncture. Furthermore, in **Ash Mohammad v. Shiv Raj Singh (2012) 9 SCC 446**, the Hon'ble Supreme

Court observed that “in cases of heinous crimes, the duration of custody or delay in trial must be assessed in the context of the totality of circumstances, including the conduct of the accused, the nature of allegations, and the diligence shown by the prosecution.” In the instant case, there is no material to suggest that the State has failed in its prosecutorial obligations or that the petitioner’s right to a speedy trial has been infringed. On the contrary, the record reflects that the trial is nearing completion and is being conducted efficiently.

42. Therefore, in view of the above, this Court finds that the argument of delay raised by the petitioner is not only factually baseless but also fails the legal threshold required for grant of bail in such serious and sensitive matters. Accordingly, the plea of delay is rejected.

43. Thus, upon careful examination of the grounds urged in the present application, this Court finds that the contentions raised are essentially a repetition of those already considered and rejected by the learned trial court. No fresh facts, subsequent developments, or changes in circumstances either factual or legal have been brought to the notice of this Court that would justify a reconsideration of the matter or a deviation from the view previously taken. It is a well-established principle that any successive bail application must be founded on a material change in circumstance; in the absence of such change, the application is liable to be dismissed at the threshold.

44. This Court, while independently considering the present bail application, finds no infirmity, irrationality, or legal error in the reasoning adopted by the Learned Additional Sessions Judge while rejecting the petitioner’s earlier application. The learned trial court has rightly appreciated the

gravity of the offence, the nature and credibility of the evidence collected during investigation, the stage of the trial, and the potential risk of tampering with evidence or influencing witnesses. These are factors that continue to hold the field even as on date.

45. As noted earlier, the trial is progressing meaningfully, with 18 out of 29 witnesses already examined. The prosecution has placed reliance on a consistent and corroborated chain of circumstantial evidence, including the petitioner's custodial statement, motive arising out of a monetary dispute of ₹10,000–₹12,000 regarding the procurement of poppy straw, call detail records indicating frequent contact, and the recovery of relevant articles at the instance of the petitioner. These circumstances if taken cumulatively, establish a strong prima facie case which cannot be brushed aside at this stage.
46. In light of what has been discussed herein above, and having regard to the gravity of offence, I do not find any merit in this petition and the same is, accordingly, dismissed.
47. Accordingly, the present bail application is ***dismissed***.

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
10.10.2025
MIHUL

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