

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CrIA(D) 3/2025 CrIM(77/2025)

UT through P/S Baramulla (Home)

. . . Petitioner/appellant(s)

Through: Ms. Maha Majeed, Assisting Counsel

Vs.

Hilal Ahmad Wani and another

. . . Respondent(s)

Through: Mr. Shabir Ahmad Bhat, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
18/11/2025

1. By the present appeal, challenge is laid to order dated 24.07.2024 passed by the Id. Additional Sessions Judge, Baramulla (Special Judge under the ULA(P) Act) [hereinafter “the trial court”], whereby the respondents, who face accusations under Section 13 of the ULA(P) Act, Sections 148, 149, 188 and 336 IPC, and Section 3 of the Prevention of Public Property (Damage) Act, were enlarged on bail.
2. The impugned order is assailed on the ground that the trial court failed to appreciate the material on record, despite there being sufficient evidence connecting the respondents with the incident dated 03.02.2024. It is urged that the trial court committed a manifest error in releasing the respondents on bail, as the respondents, while

being lodged in District Jail Baramulla, are alleged to have indulged in violence, damaged public property, and committed acts amounting to unlawful activity punishable under Section 13 of the ULA(P) Act.

3. The factual background, in brief, is that the respondents were already under detention in District Jail Baramulla when one inmate, namely *Muhammad Rafiq Khan*, resident of Luthna Tangdhar, Karnah, Kupwara, fell ill and was referred to GMC Baramulla for treatment, where he was declared brought dead. Upon learning of his death, several inmates, including the respondents, allegedly resorted to arson and unrest within the jail premises, causing extensive damage to jail property, raising anti-national slogans, pelting stones, and damaging CCTV cameras and other government installations. The situation was brought under control only after reinforcement by security agencies. These acts led to registration of FIR No. 35/2024 for offences under Section 13 ULA(P) Act, Sections 148, 149, 188, 336 IPC and Section 3 PPD Act.
4. The trial court, while granting bail, observed that the respondents were already in custody at the time of registration of the FIR and that the offences alleged carry a maximum punishment of seven years. Considering that the incident occurred in February 2024 and that the respondents had remained in custody for over five months in connection with the present FIR, the trial court found no legal bar to grant of bail and accordingly enlarged them on bail.
5. We have heard learned counsel for the parties and examined the record. According to the appellant, the acts attributed to the

respondents were unlawful and had the potential to create serious disorder within the jail premises. It is submitted that the respondents exploited the unfortunate death of a fellow inmate to indulge in stone pelting, damage public property, and raise anti-national slogans, thereby conveying a message questioning the territorial integrity of the Union of India and advocating secession of the UT of Jammu and Kashmir. On this basis, it is urged that the trial court erred in exercising discretion in favour of the respondents. The respondents, however, rely on the principles laid down in *Arnesh Kumar v. State of Bihar* 2014 (8) SCC 273 to contend that the grant of bail fell squarely within the discretion of the trial court.

6. Reliance was also placed by learned counsel for the respondents on a judgment of this Court, to contend that no offence is made out, particularly in absence of any identification parade, and that the prosecution case rests on unreliable and fabricated evidence.
7. Having considered the rival submissions, we find that the offences alleged carry a maximum punishment of seven years. It is undisputed that at the time of the incident, the respondents were already lodged in jail in connection with another case. The trial court has rightly observed that even if they were not formally arrested in the present FIR, their custodial status continued by virtue of their existing detention.
8. During the course of arguments, it was further brought to our notice that the respondents stand acquitted in the earlier case under which they were detained at the relevant time. The present case is the only

matter pending against them, the charge-sheet stands filed, and the application for discharge is stated to be ripe for consideration. In these circumstances, the discretion exercised by the trial court does not appear to suffer from any legal impropriety.

9. Upon perusal of the impugned order, we find that the trial court has exercised its discretion judiciously and in accordance with law. The conditions imposed are adequate to secure the presence of the respondents during trial. Once the investigation is complete and the charge-sheet has been filed, we find no compelling ground to interfere with the order granting bail or to place the respondents back into the position that existed prior to 24.07.2024.
10. Consequently, the appeal is found to be without merit and is accordingly dismissed.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

SRINAGAR
18.11.2025
N Ahmad

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