

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

CrIa(D) 9/2025 CrIM(177/2025)

Abdul Rashid Rather

...Appellant(s)

Through: Mr. Khan Sameer, Advocate

Vs.

Union Territory Through Police Station Dooru ...Respondent(s)

Through: Ms. Maha Majeed, Assisting Counsel vice
Mr. Mohsin Qadri, Sr. AAG.

CORAM:

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

ORDER

16.07.2025

01. This appeal by the appellant Abdul Rashid Rather, who is accused in case FIR No. 138/2021, Police Station Dooru, for commission of offences under Sections 302, 307 & 326 IPC, Sections 16, 18, 19, 20, 23 and 39 UAP Act, and Section 7/25 and 7/27 of the Arms Act, challenges an order dated 23rd January, 2025, passed by the learned Special Judge, UAPA, Anantnag, ["the trial Court"], whereby the trial Court has rejected the bail application filed by the appellant.

02. The impugned order has been challenged by the appellant primarily on the ground that the trial Court has not appreciated that there is no evidence come on record to prove the involvement of the appellant in the commission of offences allegedly committed by him. He submits that there are major contradictions in the statements of witnesses and, therefore, the story projected by the prosecution cannot be said to be *prima facie* true.

03. Having heard learned counsel for the parties and perused the material on record, it is seen that there are as many as twenty-four prosecution witnesses cited by the prosecution in the challan. On an earlier occasion, when the bail plea of the appellant was rejected by the trial Court, an appeal was preferred before this Court. At that time the trial Court had examined ten out of twenty-four prosecution witnesses. When the appeal filed by the appellant was taken up for consideration by this Court, the appellant withdrew the appeal with a liberty to file fresh bail after a period of four months or after the statement of the Investigating Officer was recorded, whichever was earlier. The request of the appellant was accepted by the Court, and the appeal was dismissed as withdrawn, with a request to the trial Court to expedite the trial process.

04. The trial Court has thereafter examined three more witnesses, and the trial is going on. Eleven witnesses are yet to be examined, and nothing new has come on record which would support the plea of the appellant. The material on record in the shape of testimonies of the witnesses so far recorded does not support the contention of the learned counsel for the appellant that the case put up by the prosecution against him is *prima facie* not true.

05. We cannot, at this stage, sift through the entire evidence and conduct a mini-trial to find out whether, on the basis of evidence so far brought on record, the appellant is entitled to be acquitted or not. There is *prima facie* evidence come on record during the trial which clearly points to the *prima facie* involvement of the appellant not only in harboring the militants but also in providing substantial aid and assistance. The encounter has taken place in the house of the appellant, and arms and ammunition have been recovered therefrom. Even at the instance of the appellant, recovery of weapons has

been made. Whether or not the prosecution has succeeded to prove the recoveries, as also the presence of the appellant in the house at the time of encounter, are matters of appreciation after the trial is concluded.

06. For the foregoing reasons, we see no reason or justification to interfere with the order impugned passed by the trial Court. This appeal is found to be without merit and the same is, accordingly, **dismissed**. The appellant, however, shall be at liberty to file a fresh bail plea before the trial Court only if there is a change of circumstances, viz; recording of some more witnesses, in particular the statement of the Investigating Officer.

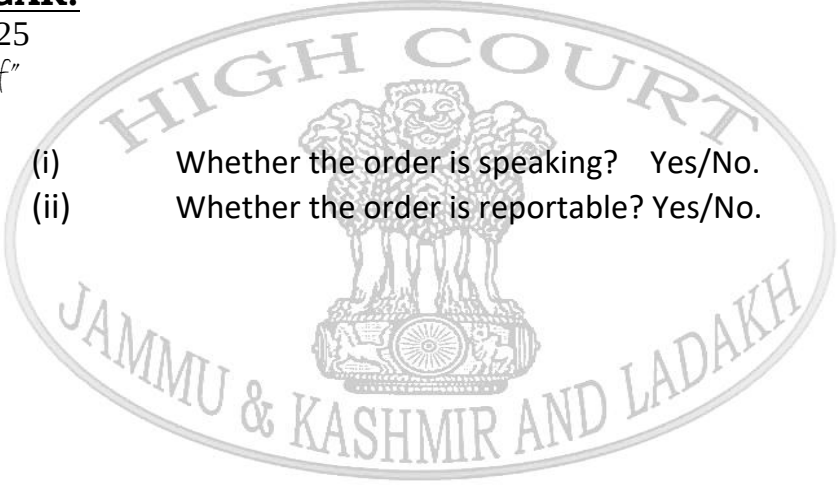
(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:

16.07.2025

"Mir Arif"

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- (i) Whether the order is speaking? Yes/No.
(ii) Whether the order is reportable? Yes/No.