

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

...

CRM(M) no.597/2023
c/w CRM(M) no.368/2023

Showkat Ahmad Bhat

.....Petitioner(s)

Through: Mr Rizwan ul Zaman Bhat, Advocate

Versus

Union Territory of J&K and others

.....Respondent(s)

Through: Mr Jahingeer Ahmad Dar, GA
Mr Javid Qureshi, Advocate

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL JUDGE

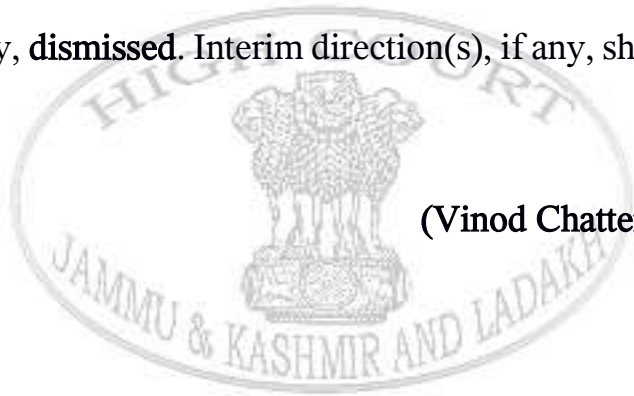
ORDER

11.03.2025

1. In CRM(M) no.368/2023, setting-aside of Order dated 26th June 2023 passed by Principal Sessions Judge, Shopian in anticipatory bail application filed under Section 438 of the Code of Criminal Procedure (Cr.P.C.) titled as *Hilal Ahmad Bhat and others v. UT of J&K*; Order dated 4th July 2023 passed by Chief Judicial Magistrate, Shopian (CJM) in bail application titled as *Hilal Ahmad Bhat v. UT of J&K*; and Order dated 10th July 2023 passed by Chief Judicial Magistrate in bail application titled as *Hilal Ahmad Bhat v. UT of J&K*, is sought for, whereas in CRM(M) no.597/2023, setting-aside of Order dated 18th August 2023 passed by Chief Judicial Magistrate in bail application titled as *Hilal Ahmad Bhat v. UT of J&K* is prayed for.
2. I have heard counsel for parties and considered the matter.

3. Grounds of challenge, *inter alia*, are that impugned orders have been passed in hot haste and without application of mind; that criteria for cancellation of bail already granted are entirely different than the criteria for refusal of bail; that grant of bail in non-bailable offence is discretion of a court but this discretionary jurisdiction is to be exercised in judicious manner by applying sound judicial principles; that court can refuse bail in non-bailable offences if in the opinion of the court a case for grant of bail is not made out. Reference has been made to *Siddharam Satlingappa Mhetre v. State of Maharashtra and others* (2010) 8 SCC 353; *Dolatram v. State of Haryana* (1995) 1 SCC 349; *Puran v. Rambilas* (2001) 6 SCC 338;
4. By virtue of impugned order dated 26th June 2023, bail in anticipation of arrest in favour of private respondents herein has been given on the terms and conditions contained therein in connection with case FIR no.102/2023.
5. In terms of order dated 4th July 2023, in bail-cum-surrender application, interim bail was granted in favour of private respondents.
6. Insofar as order impugned dated 10th July 2023 is concerned, CJM observed that accused/ respondent himself approached it to surrender before it and that investigation of the case was almost complete, so custody of accused would not serve any purpose and he could be bound down by conditions to cooperate with investigating agency as well as conditions with respect to not tampering with prosecution evidence. Thus, CJM extended interim bail already granted in favour of accused.
7. Qua impugned order dated 18th August 2023, CJM made absolute interim bail of accused/respondents.

8. Status report in both the petitions is on the file, in which official respondent would contend that two accused persons, namely, Umer Hilal Bhat and Imran Hilal Bhat, are juveniles. Thus, Juvenile Challan against these two accused juveniles was produced before Juvenile Justice Board (JJB) Shopian whereas in respect of accused persons, namely, Hilal Ahmad Bhat and Mst. Parveena, challan was produced before CJM on 18th August 2023.
9. Grant of bail is rule and committal to jail is an exception. Refusal of bail is restriction on personal liberty of individual guaranteed under Article 21 of the Constitution of India. If that being the position, impugned orders granting bail in favour of accused/respondents need not be interfered with and as a corollary thereof instant petitions fail.
10. In view of above, the instant petitions are without any merit and are, accordingly, **dismissed**. Interim direction(s), if any, shall stand vacated.



(Vinod Chatterji Koul)
Judge

Srinagar
11.03.2025
Ajaz Ahmad, Secy.