

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

BAIL APP No.195/2025

VIKAS KUMAR

...Petitioner/Appellant(s)

Through: Mr. Priyanshu Sharma, Advocate.

Vs.

UT OF J&K TH. SHO P/S RAJPORA AND ANR.

...Respondent(s)

Through: Mr. Furqan Yaqoob Sofi, GA
Mr. Shuja ul Haq, Advocate.

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

15.10.2025

(ORAL)

1. Through the medium of instant bail application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, (BNSS) the petitioner herein seeks bail in anticipation of his arrest in FIR No. 0092 dated 22-10-2024, registered with Police Station Rajpora Pulwama, under Section 318(4) and Section 61(2) of Bharatiya Nyaya Sanhita (BNS).

2. It has been stated in the application that a false and frivolous case under the FIR in question has been registered against the petitioner herein at the behest of the respondent 2 herein and that owing to the registration of said FIR, petitioner herein has apprehension of arrest therein the said FIR.

3. It is further pleaded that though the petitioner initially along with other co-accused persons arraigned in the FIR, filed an application for grant of anticipatory bail before the Additional Session Judge Pulwama on 07-01-2025, and an interim bail thereof was granted to all the accused including the petitioner herein by the said court till 20-02-2025, and that the said court, although made the said interim bail absolute qua other accused persons,

however, declined the same qua the petitioner herein owing to his non-appearance in terms of order dated 24-02-2025.

4. It is further stated that although the FIR in question wherein the anticipatory bail is being sought by the petitioner, though earlier had been called in question by the petitioner herein before this Court yet, that said petition stands dismissed by this Court in terms of judgement and order dated 10-09-2025.

5. It is next stated that the petitioner herein being non-local is vulnerable to the pressure tactics and arm-twisting methods adopted by the complainant respondent 2 herein, as such, is maintaining the present application before this Court and in the event of his arrest reputation as well as liberty of the petitioner herein would be curtailed and would seriously suffer thereof.

Heard counsel for the petitioner and perused the record.

6. As has been noticed in the preceding paras, it has been admitted by the petitioner herein that, he, the petitioner, initially approached the Sessions Court at Pulwama along with other co-accused for grant of anticipatory bail in the FIR in question which came to be granted, however, subsequently the said concession of bail was withdrawn owing to his non-appearance before the said court. The said fact however, belies the stand taken by the petitioner in the instant petition that he is exposed to severe threat in the event he seeks anticipatory bail from the Sessions court at Pulwama again. Besides, the Apex court in a recent case titled as **“Jagdeo Prasad Vs. State of Bihar”** reported in **2025 SCC Online SC 2108** has, *inter alia*, held that while the scheme of Criminal Code Procedure code 1973 (now BNSS 2023) provides concurrent jurisdiction to High Courts and Sessions court for entertaining application for anticipatory bail, this Court has time and again observed that

High Court should always encourage exhausting of an alternative/ concurrent remedy before directly interfering itself as this approach balances the interests of all stakeholders, first by giving the aggrieved party a round of challenge before High Court and second, this approach provides the High Court an opportunity to assess the judicial perspective so applied by the Sessions court, in concurrent jurisdiction, instead of independently applying its mind from the first go.

7. Having regard to the aforesaid position obtaining in the matter inasmuch as the observations made by the Apex Court in the judgement supra, this Court is not inclined to display indulgence in the instant application.

8. Resultantly the application fails and is accordingly **dismissed**. However, the dismissal of the instant application shall not stand in the way of petitioner herein in seeking bail in anticipation of his arrest before appropriate court.

(JAVED IQBAL WANI)
JUDGE

SRINAGAR

15.10.2025

Ishaq

Whether order is speaking ? Yes

Whether approved for reporting ? Yes