

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

Bail App No. 21/2026

Date of pronouncement: 05.05.2026

Date of uploading: 06.05.2026

Zakir Hussain age 53 years S/o
Mohd. Sadeeq R/o Mehyari, Tehsil
Kalakote, District Rajouri, J&K

..... Petitioner(s)/ Appellant(s)

Through: Mr. Mehtab Gulzar, Advocate

vs

01.UT of J&K through Station House
Officer, Rajouri.

..... Respondent(s)

02.Mrs. X W/o Shamsheer Hussain, D/o
Late Feroze Din R/o Mehyari, Tehsil
Kalakote, District Rajouri, J&K

Through: Mr. Bhanu Jasrotia, GA for R- 1
Mr. Ajaz Chowdhary, Advocate for R- 2

Coram: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

ORDER

05.05.2026

- 01.** Petitioner has invoked Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"] for bail in anticipation of arrest, after his plea for a similar relief came to be declined by learned Additional Sessions Judge, Rajouri ["the trial Court"].
- 02.** As the prosecution story would unfurl, the prosecutrix (name withheld) approached Police Station, Rajouri with a written complaint on 22.11.2025 alleging *inter alia* that on 03.10.2025, at about 02:30 am, the accused forcibly entered her rented room, assaulted and molested her, attempted to disrobe her and threatened her with dire consequences. On

the receipt of this complaint, FIR No. 0570/2025 came to be registered, for offences under Sections 333, 74 and 351(2) BNS.

03. During investigation, when statement of the complainant in terms of Section 179 BNSS came to be recorded, she also alleged that accused, petitioner herein, who is real brother of her husband had forcibly entered her house in village Mehyari, Tehsil Kalakote on 14.01.2025 and 20.01.2025 at about 11:30 PM and committed rape upon her. Statement of the complainant also came to be recorded before the concerned Magistrate under Section 183 BNSS, whereby she again came up with another allegation of previous sexual assault by the petitioner on 24.11.2025.
04. The investigating agency on the evaluation of statements of the complainant and jurisdictional aspects of the matter has come to conclude that though offences under Sections 333, 351(2) and 74 BNS, with respect to the incident of 03.10.2025 alleged to have been committed within the jurisdiction of Police Station, Rajouri were *prima facie* made out, but offence of rape under Section 64 BNS, reported after a considerable delay of about 10 months, pertains to the territorial jurisdiction of Police Station, Kalakote and matter as such was communicated to the concerned Police Station.
05. Bail plea of the petitioner did not find favour with the trial Court primarily on the ground of gravity of the charge, which prompted the petitioner to approach this Court for emancipation.
06. The plea has been opposed on the other side by the official and private respondents predominantly on the ground of seriousness of accusation.

It is contention of the respondents that since petitioner is involved in the commission of heinous offences of rape and outraging the modesty of a women, he does not deserve the liberty of bail.

07. The occurrence in the present case is alleged to have taken place on 03.10.2025 and FIR came to be registered on 22.11.2025 i.e. after a delay of more than 50 days. The only allegation of the complainant in the written complaint is that petitioner on 03.10.2025 at 02:30 AM forcibly entered her rental accommodation, assaulted and molested her, attempted to disrobe her and threatened her with dire consequences. That is all.
08. Pertinently, when statement of the complainant came to be recorded under Section 179 BNSS, she for the first time revealed that petitioner had repeatedly raped her on 14.01.2025 and 20.01.2025 in her house at village Mehyari, Tehsil Kalakote. After this revelation, when statement of the complainant was recorded before the concerned Magistrate under Section 183 BNSS, she came up with another allegation of previous sexual assault at the hands of the petitioner on 24.11.2025. In the circumstances, since occurrences of rape were alleged to have taken place within territorial jurisdiction of Police Station, Kalakote, the investigating agency reported the matter to the concerned Police Station.
09. It is manifest from the sequence of events narrated in the reply filed on behalf of the official respondent that though prosecutrix did not mention anything about the occurrence of rape in her initial complaint, but whenever she was examined during investigation, she made

improvements and exaggerations one after the another. Learned trial Court has overlooked this vital aspect of the matter.

10. Courts are required to be cognizant of the fact that liberty of an individual whose involvement can be established in a full dressed trial is not dealt with lightly. Personal liberty of a citizen is too precious a value of our constitutional framework recognized under Article 21 of the Constitution.
11. As per the investigating agency, offences of house trespass, criminal intimidation and outraging modesty of the complainant, respectively under Sections 333, 351(2) and 74 BNS, punishable upto 7 years, with respect to occurrence of 03.10.2025, allegedly committed within territorial jurisdiction of Police Station Rajouri are *prima facie* made out against the petitioner. It appears from the response filed on behalf of the official respondent that but for technical investigation pertaining to CDR analysis, tower location and dump data, investigation of the case is at its final stage.
12. For the foregoing reasons, present application is allowed and petitioner, in the event of arrest, is directed to be released on bail on his executing a surety bond to the tune of Rs.25,000/- and a bond of personal recognizance of the like amount, subject to the following conditions:
 - i. he shall not jump over bail and tamper with the prosecution evidence;
 - ii. he shall not leave territorial jurisdiction of the trial Court without prior permission;

- iii. he shall not commit any offence similar to the offence he is accused of; and
- iv. he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the trial Court.

13. Disposed of.

(Rajesh Sekhri)
Judge

Jammu
05.05.2026
Riya Kochhar

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