

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

Bail App No. 35/2025

Reserved on: 25.02.2026
Pronounced on : 06.03.2026
Uploaded on : 06.03.2026
Whether the operative part or full
judgment is pronounced: Full

Kewal Singh

....Petitioner

Through:- Mr. Ch. Mohd. Shabir, Advocate.

V/s

UT of J&K & anr

.....Respondents

Through:- Mr. Bhanu Jasrotia, GA for R-1.
Mr. Rohit Sharma, Advocate for R-2.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

(JUDGMENT)

01. The petitioner has filed the present petition under Section 483(3) of BNSS seeking cancellation of bail granted in favour of respondent No. 2 by learned Principal Sessions Judge, Reasi vide his order dated 23.12.2024 in a case arising out of FIR No. 85/2024 for offences under Sections 302/307/450/452/323/109 IPC read with section 30 Arms Act registered with Police Station, Reasi.

02. It appears that the petitioner, who happens to be the father-in-law of respondent No. 2, had lodged a written

report with the police of Police Station, Reasi on 11.05.2024 alleging therein that accused Doulat Ram along with some unknown persons had come to his residence along with weapons at Kambal Danga and he opened fire from his licensed gun towards deceased Amit Singh on his chest, as a result of which he sustained bullet injuries whereafter he was shifted to District Hospital, Reasi where he succumbed to the injuries. FIR No. 85 of 2024 for offences under Section 452/307/34 IPC read with section 4/25 Arms Act was registered with Police Station, Reasi and investigation of the case was undertaken. Upon death of injured Amit Singh, offence under section 302 IPC was incorporated in the FIR.

03. After investigation of the case, it was found that main accused Doulat Ram had killed his son-in-law deceased Amit Singh as his daughter Geeta Devi, respondent No. 2 herein and his son-in-law, deceased Amit Singh, were having a matrimonial discord. It was also found that there was an argument between the deceased Amit Singh and main accused Doulat Ram on 11.05.2024 when he armed with his VDC weapon had gone to the house of the deceased. Accused Doulat Ram fired one round on deceased Amit Singh and another round on Ameer Singh, who happens to be the brother of the deceased, with an intention to kill them.

04. It appears that initially the name of respondent No. 2-Geeta Devi was not mentioned in the FIR but later on during the investigation of the case, on the basis of the

statements of the witnesses made under section 164/161 of CrPC she was impleaded as co-accused after it was found that she had abetted the main accused in committing the crime.

05. After investigation of the case, offences under sections 302/307/450/452/323 IPC read with Section 30 of the Arms Act were found established against accused Doulat Ram and offence under section 109 IPC was established against Geeta Devi-respondent No. 2 herein. Both these accused were taken into custody and the challan was produced before the learned trial court. Vide order dated 12.12.2024, the learned trial court framed charges for offences under sections 302/ 307/450 IPC read with section 30 Arms Act against accused Doulat Ram whereas charge for offences under sections 302/ 307/109 IPC was framed against respondent No. 2-Geeta Devi.

06. An application came to be filed by respondent No. 2-Geeta Devi before the learned trial court seeking bail primarily on the ground that she is a lady and that she has to take care of two minor breast feeding children, one aged two and a half years and other aged one and a half years. The learned trial court, after hearing the parties and after analyzing the material on record, enlarged respondent No. 2-Geeta Devi on bail in terms of order dated 23.12.2024 solely on humanitarian grounds without touching the merits of the case.

07. The aforesaid order has been assailed by the petitioner/complainant on the grounds that the said order is

arbitrary and has been passed in a casual manner. It has been contended that the bail order passed by the learned trial court suffers from infirmity, which has resulted in miscarriage of justice. It has been contended that only one eye witness has been examined so far and most of the material witnesses are yet to be examined, therefore, it was not open for the learned trial court to enlarge respondent No. 2-Geeta Devi on bail in a heinous offence like murder. It has been contended that order of bail has been passed on irrelevant considerations inasmuch as two minor children are not residing with respondent No. 2. It has been further contended that there is every apprehension that respondent No. 2 would tamper with the prosecution witnesses and in this regard, the petitioner has already submitted an application with SHO Police Station, Reasi. It has been contended that respondent No. 2 could not have been granted bail in a case relating to gruesome murder of her husband by none-else than her father with whom she was completely in league. Relying upon the judgments of the Supreme Court in the case of **Gurcharan Singh and ors Vs. State (Delhi Administration), 1978 AIR 179 and Kanwar Singh Meena Vs. State of Rajasthan and anr (2012) 12 SCC 180**, it has been contended that the learned trial court has, while granting bail to respondent No. 2, ignored the legal principles settled by the Supreme Court in the aforesaid two cases.

08. Respondent-State in its reply to the application has narrated the allegations made in the chargesheet and it has been contended that the learned trial court should not have granted bail to respondent No. 2 in a heinous offence like murder.

09. Respondent No. 2-Geeta Devi in her reply to the application has submitted that initially she was not named as an accused in the FIR but it was only when statements of three witnesses, namely, Amir Singh, Ajay Singh and Meenchan Devi were recorded after about one month of the occurrence that her name was impleaded as an accused whereafter she came to be arrested on 10.06.2024. It has been contended that there was no abetment or instigation on behalf of respondent no. 2-Geeta Devi and there is no reliable evidence on record to this effect. It has been submitted respondent No. 2 has been dragged into the alleged occurrence after thorough deliberation and discussion between the complainant and his other family members.

10. Respondent No. 2 has admitted that she was having a matrimonial discord with her deceased husband, who was repeatedly making demands of dowry from her and was harassing her in connection with these demands. It has been submitted that respondent No. 2 has two minor breast feeding children, one aged two and a half years and other aged one and a half years whose custody has been forcibly taken away by the petitioner and his family members while she was in

custody. It has been submitted that she has already filed a petition seeking custody of her minor children before learned District Judge, Reasi.

11. I have heard learned counsel for the parties and perused record of the case.

12. In the present case, the petitioner/complainant is seeking cancellation of bail granted to respondent No. 2-Geeta Devi by the learned trial court. Before dealing with the rival contentions of the parties, it is necessary to notice the legal position as regards the circumstances in which bail granted to an accused can be cancelled and the factors, which are required to be taken into note while arriving at such decision.

13. In **Dolat Ram and Ors Vs. State of Haryana, (1995) 1 SCC 349**, the following grounds were laid down by the Supreme Court for cancellation of bail:

- (i) *interference or attempt to interfere with the due course of administration of justice;*
- (ii) *evasion or attempt to evade the due course of justice;*
- (iii) *abuse of the concession granted to the accused in any manner;*
- (iv) *possibility of accused absconding;*
- (v) *likelihood of actual misuse of bail and*
- (vi) *likelihood of the accused tampering with the evidence or threatening witnesses.*

14. In **Deepak Yadav Vs. State of U.P & anr, (2022) 8 SCC 559**, the Supreme Court, after noticing the ratio laid down in **Dolat Ram's** case (supra) has held that cancellation of bail cannot be limited to the occurrence of supervening circumstances and that discretion to cancel the bail of an

accused even in the absence of supervening circumstances is vested with the court. The Supreme Court culled out illustrative circumstances where the bail can be cancelled.

The same are reproduced as under:

- a) Where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record.*
- b) Where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim.*
- c) Where the past criminal record and conduct of the accused is completely ignored while granting bail.*
- d) Where bail has been granted on untenable grounds.*
- e) Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.*
- f) Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified.*
- g) When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case.*

15. From the foregoing analysis of legal position on the subject, it is clear that not only in cases where conditions of bail have been violated by an accused or where there is an attempt on his part to interfere with the due course of justice, the bail granted to an accused can be cancelled but it can also be cancelled in a case where relevant factors, which

should have been taken into consideration by a Court while dealing with the application for bail have not been taken note of or if the bail order is founded on irrelevant considerations. Thus, the superior court is vested with the power to set aside an order of bail if it is found that the court granting bail has failed to consider the relevant factors.

16. Coming to the facts of the present case, the learned trial court has granted bail to respondent No. 2 on humanitarian grounds and not on merits. While granting bail to respondent No. 2, learned trial court has noted that she is having two breast feeding minor children, one aged two and a half years and other one and a half years, who need her care and protection. It has also been noted by the learned trial court that role of respondent No 2 is that of an abettor and being a lady, a lenient view has to be taken while considering her plea for bail.

17. All the aforesaid factors that have been taken into account by the learned trial court while enlarging respondent No. 2 on bail can, by no stretch of reasoning, be termed as irrelevant considerations. It is not in dispute that the petitioner has two minor children, one aged two and a half years and another aged one and a half years. Though it is being contended by the petitioner that presently the children are in his custody and not with their mother yet, it has to be noted that the said situation has arisen only because their mother was taken into custody by the police during

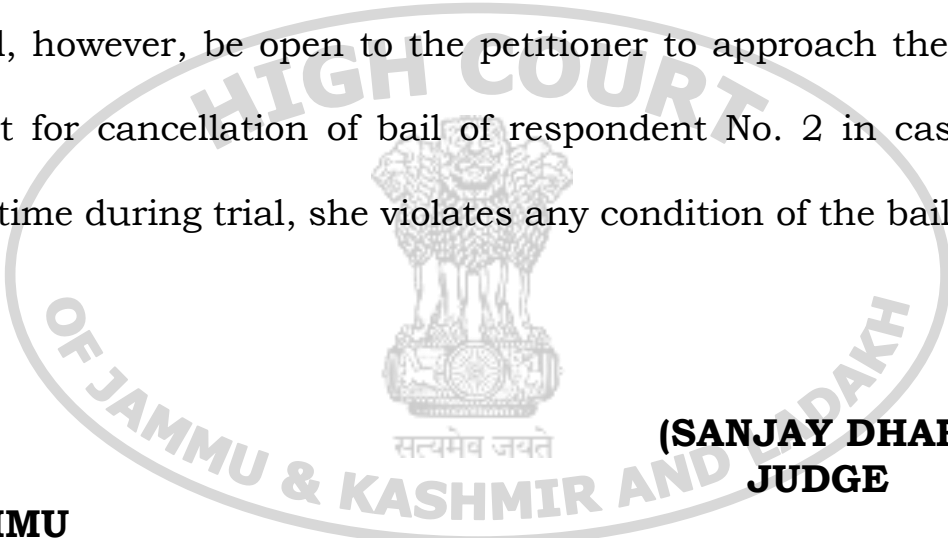
investigation/trial of the case. So it is not a case where respondent No. 2 has abdicated her children or that her children are staying away from her because of her conduct but it is a case where children of respondent No. 2 were forced to live with the petitioner, who happens to be their grandfather because there was nobody else to look after them once their father died on account of the incident which led to registration of case against the main accused and respondent No. 2.

18. In view of aforesaid facts peculiar to this case, the circumstance relating to custody of children with the petitioner cannot be read against respondent No. 2. Similarly it is not in dispute that the deceased had died on account of gunshot wound, which was fired by main accused Doulat Ram. Therefore, the role of respondent No. 2 cannot be equated with the role of main accused. Learned trial court while taking notice of these circumstances has taken into consideration only the relevant factors. Thus, the trial court has not committed any illegality while enlarging respondent No. 2 on bail.

19. The contention of the petitioner that there is an apprehension that respondent No. 2 would tamper with the prosecution witnesses is not supported with any material. In the application made by the petitioner with the police no instance of any attempt on the part of respondent No. 2 to tamper with the prosecution witnesses has been mentioned. The State in its reply to the present application has not

brought to the notice of this court any incident that would go on to show that respondent No. 2 has misused the concession of bail or she has tried to tamper with the prosecution witnesses. In fact, the record of the trial court would show that respondent No. 2 has been appearing before the said court on each and every date of hearing.

20. For what has been discussed hereinbefore, I do not find any ground to cancel the bail that has been granted to respondent No. 2 by the learned trial court in terms of order dated 23.12.2024. The petition is, accordingly, **dismissed**. It shall, however, be open to the petitioner to approach the trial court for cancellation of bail of respondent No. 2 in case, at any time during trial, she violates any condition of the bail.



(SANJAY DHAR)
JUDGE

JAMMU
06.03.2026
Naresh/Secy.

Whether the judgment is speaking: **Yes**

Whether the judgment is reportable: **Yes**