

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Bail App No. 46/2026

Reserved on : 22.05.2026

Pronounced on: 06.06.2026

Uploaded on : 06.06.2026

**Whether the operative part or full
judgment is pronounced : FULL**

Mohd. Hanief

.... Petitioner/Applicant(s)

Through:- Mr. Sunil Sethi, Sr. Advocate with
Mr. Vishal Mahajan, Advocate

V/s

Union Territory of J&K

.....Respondent/Non-applicant(s)

Through:- Mr. Raman Sharma, AAG with
Ms. Saliqa Sheikh, assisting counsel

CORAM : HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE

JUDGMENT

01. The petitioner seeks bail in anticipation of his arrest in FIR No. 0001 of 2026 dated 02.02.2026 for the offence under Section 7 of Prevention of Corruption Act, 1988, registered with Police Station ACB Central Branch Jammu.

02. The case of the prosecution is that on an application of one Bagh Singh son of late Dharam Singh, an FIR has been registered. The complainant has alleged that his Dharam-sister namely Smt. Shreshta Kumari wife of Late Sh. Om Parkash R/o Tikri was the owner of land measuring 07 Marlas falling under Khasra No. 1135 situated at Village Tikri. This land was sold by her to his son-Parshotam Singh by executing an Agreement to Sell. The complainant and his son wanted to raise

construction of the house on this land but since the land had not been transferred in the name of his son and was in the name of Shreshta Kumari in the revenue record, therefore, they applied for the requisite permission in the name of Shreshta Kumari. The requisite permission in this regard has also been received by them from the Block Development Officer and the Revenue department. However, despite compliance of all the rules, an employee of the Revenue Department, i.e., the petitioner herein, being Halqa Patwari Tikri, started demanding an illegal gratification of ₹30,000 in lieu of allowing the construction work.

03. It is submitted that the complainant expressed his unwillingness to pay any bribe to the petitioner, then the petitioner threatened him that he will not allow to raise construction and after repeated pressure, reduced the demand to ₹20,000/-. The continuous demand for illegal gratification has caused mental harassment to the complainant and he does not want to pay him the bribe and the complainant request for taking cognizance of the matter and take appropriate legal action against the above mentioned officer.

04. On the basis of the above mentioned complaint, a pre-verification enquiry was conducted by an Inspector of this office, who after conducting the verification discreetly submitted his report wherein allegations of complainant were corroborated and *prima facie* case under Section 7 of the Prevention of Corruption Act, 1988, was found to have been made out against the petitioner, (Patwari Halqa Tikri) for demanding illegal gratification of bribe money which was finally settled at ₹ 17,000/-.

Accordingly, FIR No. 0001 of 2026 under Section 7 of the Prevention of Corruption Act, 1988, was registered at ACB Police Station Central against the petitioner-Mohd. Hanief (Patwari Halqa Tikri) and investigation of the case was entrusted to Dy.SP Laxmi Kant of P/s ACB Central, Jammu for laying a trap.

05. It is submitted by the respondents that during trap, the petitioner demanded and accepted the bribe amount of Rs. 17,000/- from the complainant but thereafter managed to escape from the spot, however, the bribe amount of Rs. 17,000/- was recovered from adjoining kitchen of clerical section of the office of Naib Tehsildar tikri in presence of the independent witness and Girdawar Mohd. Mushtaq.

06. The petitioner has an apprehension of arrest by the respondents, as such, he has approached this Court for grant of anticipatory bail. The learned senior counsel for the petitioner has contended that there is no demand and acceptance of the bribe by the petitioner from the complainant as alleged in the FIR. That is why when the ACB team visited the office of the Naib Tehsildar, the complainant instead of giving money to the petitioner threw one packet towards the petitioner in the office, where the petitioner had gone for some work and was standing near the pantry. The petitioner immediately left the office of the Naib Teshildar and went to his own office. This packet was taken up by the ACB team from the pantry of the office of Naib Tehsidlar.

07. The petitioner applied for grant of anticipatory bail before the Court of learned Court of learned Special Judge Anticorruption,

Udhampur (hereinafter to be referred to as ‘the Trial Court’) for grant of bail which came to be rejected vide order dated 03.03.2026 by the Trial Court by relying upon the judgment of Hon’ble Apex Court rendered in *Devinder Kumar Bansal vs. State of Punjab (2025 INSC 320)*.

08. This application has been resisted by the respondent by filing reply. In the reply, the respondent has submitted that the petitioner was involved in a very grave offence and is absconding not only from the investigation proceedings but also from his official duties. The petitioner willfully and intentionally avoiding the mandatory investigation proceedings and being the primary accused, was required for the purpose of interrogation and questioning. In the instant case, there are serious allegations of demanding and accepting bribe against the petitioner. The grant of anticipatory bail to the petitioner at this stage will prejudice the investigation proceeding as there is every likelihood of hampering of witnesses and tampering of evidence by the petitioner, if granted bail at the stage of investigation.

09. I have heard learned counsel for the parties and perused the material on record.

10. The Hon’ble Apex Court while considering the issue whether to grant bail or not depends for its answer upon a variety of circumstances and have considered the principles for the same in **Gurbaksh Singh Sibbia etc versus State of Punjab** reported as **1980 (2) SCC 560** and held

“In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from

some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond.”

11. The petitioner had approached the Court of learned Special Judge, Anticorruption Udhampur and the Trial Court has held that the petitioner has absconded and opted not to cooperate with the IO, more particularly, the statements recorded of the eye witnesses and a witness under Section 164 Cr.P.C., besides other material gathered by the investigating agency, it cannot be said that the allegations against the petitioner are false and frivolous and the petitioner has been able to project any exceptional circumstances, so as to prevail upon the Court to hold that the allegations against him regarding demand of bride and acceptance are untrue. Moreover, it was held that this is the case where custodial interrogation would be required.

12. One important factor which is required to be taken into consideration while grant of anticipatory bail to the petitioner is the nature and gravity of the allegations and role of the petitioner. In the present case, the petitioner is alleged to have demanded and accepted the bribe. The Investigating agency has, during the course of investigation conducted so far, collected the material in support of the allegations. At this stage, the role of the petitioner cannot be doubted or discarded. The

offence alleged is grave in nature and cannot be taken lightly otherwise, the public would lose faith and trust in the system.

13. In **Devinder Kumar Bansal versus State of Punjab** reported as **2025 4 SCC 493**, the Hon'ble Apex Court has held in Para No. 21 as under :

“21. The parameters for grant of anticipatory bail in a serious offence like corruption are required to be satisfied. Anticipatory bail can be granted only in exceptional circumstances where the Court is prima facie of the view that the applicant has been falsely enroped in the crime or the allegations are politically motivated or are frivolous. So far as the case at hand is concerned, it cannot be said that any exceptional circumstances have been made out by the petitioner accused for grant of anticipatory bail and there is no frivolity in the prosecution.”

23. The presumption of innocence, by itself, cannot be the sole consideration for grant of anticipatory bail. The presumption of innocence is one of the considerations, which the court should keep in mind while considering the plea for anticipatory bail. The salutary rule is to balance the cause of the accused and the cause of public justice. Over solicitous homage to the accused's liberty can, sometimes, defeat the cause of public justice.

24. If liberty is to be denied to an accused to ensure corruption free society, then the courts should not hesitate in denying such liberty. Where overwhelming considerations in the nature aforesaid require denial of anticipatory bail, it has to be denied. It is altogether a different thing to say that once the investigation is over and charge-sheet is filed, the court may consider to grant regular bail to a public servant - accused of indulging in corruption.

25. Avarice is a common frailty of mankind and Robert Walpole's famous pronouncement that all men have their price, notwithstanding the unsavoury cynicism that it suggests, is not very far from truth. As far back as more than two centuries ago, it was Burke who cautioned: “Among a people generally corrupt, liberty cannot last long”. In more recent years, Romain Rolland lamented that France fell because there was corruption without indignation. Corruption has, in it, very dangerous potentialities. Corruption, a word of wide connotation has, in respect of almost all the spheres of our day to day life, all the world over, the limited meaning of allowing decisions and actions to be influenced not by the rights or wrongs of a case but by the prospects of monetary gains or other selfish considerations.

26. If even a fraction of what was the vox pupuli about the magnitude of corruption to be true, then it would not be far removed from the truth, that it is the rampant corruption indulged in with impunity by highly placed persons that has led to economic unrest in this country. If one is asked to name one sole factor that effectively arrested the progress of our society to prosperity, undeniably it is corruption. If the society in a

developing country faces a menace greater than even the one from the hired assassins to its law and order, then that is from the corrupt elements at the higher echelons of the Government and of the political parties.

14. Further, in Para 28, it has been held as under:-

28. In *Subramanian Swamy v. Manmohan Singh*, (2012) 3 SCC 64, this Court held as under:—

“68. Today, corruption in our country not only poses a grave danger to the concept of constitutional governance, it also threatens the very foundation of Indian democracy and the Rule of Law. The magnitude of corruption in our public life is incompatible with the concept of a socialist, secular democratic republic. It cannot be disputed that where corruption begins all rights end. Corruption devalues human rights, chokes development and undermines justice, liberty, equality, fraternity which are the core values in our preambular vision. Therefore, the duty of the Court is that any anti-corruption law has to be interpreted and worked out in such a fashion as to strengthen the fight against corruption....”.

15. Section 482 BNSS is an extraordinary remedy and the same can be exercised only in exceptional circumstances in view of the allegations contained in the objection as well as in the FIR. Though the legislature intent behind introduction of Section 482 of BNSS is to safeguard the individual's personal liberty and to keep him from being subjected to unnecessary police custody. The Courts, however, must keep in mind that a criminal offence is not just an offence against an individual, rather a larger societal interest has to be considered.

16. Pre-arrest bail is to strike a balance between individual right to personal freedom and the right of the Investigating Agency to interrogate the accused as to the material so far collected and for more relevant information.

17. Learned senior counsel for the respondents submits that grant of anticipatory bail to the petitioner at this stage of the investigation would

cause prejudice to the investigation proceedings and there is likelihood of hampering the witnesses and tampering with the evidence.

18. The alleged offences fall within the scope of Section 7 of the Prevention of Corruption Act, and in such matters, the Court has to be cautious that grant of anticipatory bail should not undermine the ongoing investigation or the public interest in prosecuting the crime.

19. Keeping in view the stage of investigation and reported non-cooperation of the petitioner, despite having been asked to join the investigation and further keeping in view the conduct of the petitioner and the larger public interest involved, the petitioner does not deserve the concession of bail in anticipation of his arrest. Accordingly, the instant bail application, being bereft of merits, is **dismissed**. The C/D file shall be returned to the Investigating Officer.



(SINDHU SHARMA)
Judge

JAMMU
RAM MURTI/PS
06.06.2026