

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

Bail App No.51/2026

Announced on: 04.06.2026

Jaswinder Singh, Aged 53 years
S/o Sh. Darshan Singh,
R/o Dablehar Tehsil Suchetgarh, District
Jammu Presently lodged in District Jail,
Amphalla, Jammu

.....Petitioner(s)

Through: Mr. Sunil Sethi, Sr. Advocate with
Mr. Navyug Sethi, Advocate

Vs

Central Bureau of Investigation, Anti-
Corruption Branch, Jammu.

..... Respondent(s)

Through: Ms. Monika Kohli, Sr. Advocate with
Mr. Vivek Gupta, Advocate

Coram: HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

JUDGMENT (ORAL)

1. Through the medium of instant bail application filed under Section 483 of BNSS, 2023, the petitioner has sought bail in connection with case FIR No.RC00420010A0002 dated 31.03.2010 for offences under Sections 120-B, 420, 467, 468, 471 RPC read with Section 5(2) and 5(1)(d) of the Prevention of Corruption act, 1988 registered with Central Bureau of Investigation (ACB), Jammu.

2. The facts giving rise to the filing of instant bail application are that on the basis of a source information, subject FIR came to be registered against Pritam Singh and Jaswinder Singh, partners of M/s Divya Rice Mill for having entered into a criminal conspiracy with bank officials of State Bank of India, Zonal Office, Jammu, namely, A.K.Gupta, Naresh Kumar Gupta and Rajinder singh

Wazir to cheat the bank by using forged revenue documents for obtaining financial facility amounting to Rs.113.50 lakhs (Cash Credit Limit of Rs.80 lakh and Term Loan of Rs.33.50 lakh), which were sanctioned on 24.11.2006. During investigation it has been divulged that the petitioner herein had diverted Rs.9,50,705/- from the loan account for setting up another rice mill, namely, New Pooja Rice Mill.

3. Upon completion of investigation, charge-sheet under Section 120-B, 420, 467, 468, 471 RPC read with Section 5(2) and 5(1)(d) of the Prevention of Corruption Act, 1988, came to be filed before the Special Judge Anti-corruption (CBI Cases), Jammu (hereinafter referred to as “the trial Court”). All the accused were charged on 03.04.2012 except Accused K.S.Puri, who stood discharged vide order dated 16.03.2012. The accused pleaded not guilty; accordingly the prosecution was asked to adduce its evidence to substantiate the charges against the accused persons.

4. The petitioner, who was on bail, after attending the trial for some period disappeared from the trial and accordingly, proceeded under Section 512 Cr.P.C. After conclusion of the trial, co-accused, namely, Joginder Singh has been convicted and sentenced to five years simple imprisonment under Section 120-B RPC with a fine of Rs.5000/- and in default of payment of fine, simple imprisonment of six months, under Section 420 RPC he has been sentenced to undergo simple imprisonment for two years with fine of Rs.5,000/- with fine of Rs.2000/-, under Section 467 RPC simple imprisonment of five years with fine of Rs.5,000/-, under Section 468 RPC simple imprisonment of two years with fine of Rs.2,000/- and under Section 471 RPC simple imprisonment for one year with fine of Rs.5,000/-. All the sentences were directed to be run concurrently. According to the case of the prosecution, in compliance of the general warrant

of arrest, the petitioner was arrested on 12th March, 2026, on 13th March, 2026, he was remanded to judicial custody According to the petitioner, out of total 66 witnesses cited by the prosecution, 31 witnesses were examined in his presence. Initially, the petitioner moved an application for grant of bail before the trial Court, which came to be dismissed vide order dated 24.03.2026, aggrieved whereby, the petitioner is before this Court seeking indulgence of this Court to grant bail.

5. On being put on notice, the respondent resisted the application by filing objections. The stand taken by the respondent to oppose the bail application of the petitioner by supporting the findings recorded by the trial Court in its order dated 24.03.2026 that the petitioner had absconded during trial, evaded arrest for almost ten years, ,he does not deserve leniency in view of his conduct. It is further submitted that plea of illness is unsupported by any documentary material.

6. Mr. Sethi, learned senior counsel appearing for the petitioner would submit that absence of the petitioner from trial was due to his illness and medical problems and not otherwise. He would argue that the trial Court has failed to appreciate that the investigation in the case was completed long back and charge-sheet filed in the year 2010. Out of total 66 prosecution witnesses, 31 have already been examined in presence of the petitioner, continued detention would amount to pre-trial punishment, which is contrary to the settled principles of criminal jurisprudence. He would further argue that it is the cardinal principle of criminal law the bail is the rule and jail is the exception. It has submitted that a co-accused, who has been convicted and sentenced by the trial Court, granted bail by this Court in CRA No.23/2018, as such, on account of parity, the petitioner is also entitled to concession of bail pending trial. It is

further submitted that although the petitioner has been proceeded under Section 512 Cr.P.C., his bail bond and surety bond were never cancelled/forfeited.

7. On the other hand, Ms. Monika Kohli, learned Sr. AAG appearing for the respondent, would argue that the petitioner is involved in a serious economic offences causing wrongful loss to public financial institutions. Citing his earlier absence from trial and subsequent declaration as absconder, she would argue that there is every apprehension that in case of grant of bail, he will abscond, evade the course of justice and frustrate the proceedings before the trial Court.

8. Heard learned counsel for the parties and perusal the material available on record.

9. In case titled **Satender Kumar Antil v. Central Bureau of Investigation and another, (2022) 10 SCC 51**, Supreme Court has laid down certain guidelines for the courts to be followed while determining the bail applications. The paragraphs 12 and a portion of paragraph 13 being relevant are reproduced hereunder:

"BAIL IS THE RULE

12. The principle that bail is the rule and jail is the exception has been well recognised through the repetitive pronouncements of this Court. This again is on the touchstone of [Article 21](#) of the Constitution of India. This court in [Nikesh Tarachand Shah v. Union of India](#), (2018) 11 SCC 1, held that:

"19. In *Gurbaksh Singh Sibbia v. State of Punjab* [*Gurbaksh Singh Sibbia v. State of Punjab*, (1980) 2 SCC 565 : 1980 SCC (Cri) 465], the purpose of granting bail is set out with great felicity as follows: (SCC pp. 586-88 , paras 27-30)

'27. It is not necessary to refer to decisions which deal with the right to ordinary bail because that right does not furnish an exact parallel to the right to anticipatory bail. It is, however, interesting that as long back as in 1924 it was held by the High Court of Calcutta in *Nagendra Nath Chakravarti*, In re [*Nagendra Nath Chakravarti*, In re, 1923 SCC OnLine Cal 318 : AIR 1924 Cal 476 : 1924 Cri LJ 732] , AIR pp. 479-80 that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment. In

two other cases which, significantly, are the "Meerut Conspiracy cases" observations are to be found regarding the right to bail which deserve a special mention. In *K.N. Joglekar v. Emperor* [*K.N. Joglekar v. Emperor*, 1931 SCC OnLine All 60 : AIR 1931 All 504 : 1932 Cri LJ 94] it was observed, while dealing with Section 498 which corresponds to the present Section 439 of the Code, that it conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds to the present Section 437. It was observed by the Court that there was no hard-and-fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that the discretion should be exercised judiciously. In *Emperor v. H.L. Hutchinson* [*Emperor v. H.L. Hutchinson*, 1931 SCC OnLine All 14 : AIR 1931 All 356 : 1931 Cri LJ 1271] , AIR p. 358 it was said that it was very unwise to make an attempt to lay down any particular rules which will bind the High Court, having regard to the fact that the legislature itself left the discretion of the court unfettered. According to the High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes a bail may be granted but not in other classes. It was observed that the principle to be deduced from the various sections in the *Criminal Procedure Code* was that grant of bail is the rule and refusal is the exception. An accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. As a presumably innocent person he is therefore entitled to freedom and every opportunity to look after his own case. A presumably innocent person must have his freedom to enable him to establish his innocence.

28. Coming nearer home, it was observed by Krishna Iyer, J., in *Gudikanti Narasimhulu v. State* [*Gudikanti Narasimhulu v. State*, (1978) 1 SCC 240 : 1978 SCC (Cri) 115] that: (SCC p. 242, para'1)

'1.... the issue [of bail] is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitised judicial process. ... After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of "procedure established by law". The last four words of *Article 21* are the life of that human right.'

29. In *Gurcharan Singh v. State (UT of Delhi)* [*Gurcharan Singh v. State (UT of Delhi)*, (1978) 1 SCC 118 : 1978 SCC (Cri) 41] it was observed by Goswami, J., who spoke for the Court, that: (SCC p. 129, para 29)

'29. ... There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail.'

30. In *AMERICAN JURISPRUDENCE* (2 nd, Vol. 8, p. 806, para 39), it is stated:

'Where the granting of bail lies within the discretion of the court, the granting or denial is regulated, to a large extent, by

the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the court, the primary inquiry is whether a recognizance or bond would effect that end.'

It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail."

24. [Article 21](#) is the Ark of the Covenant so far as the Fundamental Rights Chapter of the Constitution is concerned. It deals with nothing less sacrosanct than the rights of life and personal liberty of the citizens of India and other persons. It is the only article in the Fundamental Rights Chapter (along with [Article 20](#)) that cannot be suspended even in an emergency [see [Article 359\(1\)](#) of the Constitution]. At present, [Article 21](#) is the repository of a vast number of substantive and procedural rights post *Maneka Gandhi v. Union of India* [*Maneka Gandhi v. Union of India*, (1978) 1 SCC 248] ."

13. Further this Court in [Sanjay Chandra v. CBI](#) (2012) 1 SCC 40, has observed that:

"21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty."

10. It is a well settled proposition of law that every accused is presumed to be innocent until proven guilty. The approach of the Court in bail matters should not be punitive but should consider whether presence of the accused can be secured during trial. The power to grant bail has to be considered in light of the constitutional guarantees under Article 21 of the Constitution of India which safeguards the personal liberty of an individual. Reference in this regard can be made to a judgment rendered in **Jagir Singh Vs. Jagjit Singh & anr.** 2012 (2) JKJ 231 (HC). Every accused has a right to defend his case.

11. The Supreme Court in the case of **Umarmia vs. State of Gujarat, (2017) 2 SCC 731**, has granted bail to the accused, who also absconded for ten years, while observing that the trial may not be completed in near future.
12. Insofar as the plea of learned counsel for the petitioner that the bail bond and surety bond furnished by the petitioner before the trial Court at the time of his release on bail are still in force as the same were never ever cancelled or forfeited is concerned, suffice it to say that it is mere an irregularity committed by the trial Court while proceeding against the petitioner under Section 512 Cr.P.C., which is not of such a magnitude which can benefit the petitioner.
12. In this case, the offence charged against the petitioner does not carry the death penalty or mandatory life imprisonment, but provides for a minimum sentence of seven years. Even a co-accused, who faced the trial has been sentenced to simple imprisonment for five years. The apprehension of the prosecution that the petitioner may again abscond can be addressed by securing sufficient sureties. Keeping the petitioner in prolonged detention would amount to pre-trial punishment and infringe upon his fundamental right to liberty.
13. In view of the above, this petition is allowed. The petitioners is directed to be released on bail subject to following conditions:
 - i) He shall furnish a personal bond of Rs.5,00,000/- and two sureties of the like amounts to the satisfaction of the trial Court;
 - ii) Additionally he shall also furnish FDR of Rs.3,00,000/- before the trial Court;
 - iii) He shall surrender his Passport before the trial Court;

- (iv) he shall not leave the territorial limits of UT of Jammu and Kashmir without prior permission of the trial Court;
- v) He shall appear before the trial Court on each and every date of hearing, unless exempted in this regard.
- (vi) he shall not temper with the prosecution evidence directly or indirectly or induce any person acquainted with the facts of the case.

Violation of any of the above conditions would entail cancellation of the concession of bail granted in favour of the petitioner.

Disposed of in the above terms.

(Moksha Khajuria Kazmi)
Judge

Jammu
04.06.2026
Vinod, PS

