

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

CRM(M) No.871/2026

Date of order: 14.08.2026.

Uploaded on: 17.08.2026

UT of J&K

.....Petitioners

Through: Mr. Dewakar Sharma, Dy. AG

Vs.

Rakesh Kumar

..... Respondents

Through:

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

ORDER

1. The petitioner-UT of J&K has filed the above titled petition under Section 439(2) of CrPC 1973, read with Section 483(3) of BNSS 2023, seeking quashment/cancellation of bail granted by the Court of Principal Sessions Judge Reasi vide order dated 19.01.2026 passed in bail application No.167/2025 titled 'Rakesh Kumar V. UT of J&K', whereby the respondent as an accused has been granted interim bail in a case registered vide FIR No.92/2024 at Police Station Arnas, for the commission of offences punishable under Sections 64/137(2) BNS & 4/17 Protection of Children from Sexual Offences Act, 2012.

2. The impugned order has been assailed on the grounds:

- (i) That the learned trial court, while passing the impugned order has not taken into account the submissions made by the prosecution, as such, the impugned order is liable to be set aside;
- (ii) That the accused is involved in grave, non bailable and heinous offences under Sections 64/137(2) BNS & 4/17 POCSO Act;

- (iii) That the impugned order dated 19.01.2026 passed by the trial court is bade in law, perverse and deserves to be set aside as the bail is granted despite strong incriminating evidence against the accused;
- (iv) That the crucial scientific evidence, which is vital to conclusively establish the paternity of the accused is still pending, so granting bail at such a premature stage amounts to miscarriage of justice;
- (v) That the enlarging the accused on bail at this critical stage is detrimental to the fair trial as it gives the accused opportunity to tamper with evidence, influence the victim and other witnesses and obstruct the course of justice; and
- (vi) That the Director General of Prosecution, J&K, after considering the matter, has granted sanction to move this application and, finally, it was prayed that the impugned order be set-aside.

3. The learned counsel for the petitioner has vehemently argued that the respondent has been granted bail by the trial court despite strong incriminating evidence against the respondent, though he was charged of the heinous offences and keeping in view the fact that the prosecution witnesses examined before the trial court have fully supported the case of the prosecution and made consistent statements, which were ignored by the learned trial court while passing the impugned order and that having regard to the gravity of the offences, the bail should not have been granted to the respondent by the court below at least, before examination of the material prosecution witnesses, as such, the order is required to be set-aside.

4. The petitioner has moved this petition in terms of Section 439(2) CrPC 1973, read with Section 483(3) BNSS 2023. Both these sections give special powers to

High Court or Court of Sessions regarding bail, providing that the bail can be granted by this court, with further provisions that the High Court or Court of Sessions may direct that any person, who has been released on bail under this Chapter be arrested and commit him to custody.

5. The respondent had been admitted to interim bail vide impugned order dated 19.01.2026, challenged in this petition. The petitioner has not placed on record as to whether the order of granting interim bail has been made absolute or what was the outcome of the bail application. Otherwise also, the ground raised by the petitioner is that the respondent, in case of grant of bail, may tamper with the prosecution evidence. For such a relief, the prosecution can always approach the Court, who had granted the bail seeking cancellation of the bail on that ground. The petitioner has failed to substantiate with regard to any illegality committed by the Trial Court, while granting interim bail to the respondent. As such, in the considered opinion of this court, no good ground has been pleaded to seek any interference in the impugned order.

6. In the aforesaid background, the petition being misconceived is **dismissed** *in limine*.

(M.A Chowdhary)
Judge

Jammu:
14.08.2026
Raj kumar

Whether the order is speaking?
Whether the order is reportable?

Yes/No.
Yes/No.