

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

**Bail App No.333/2025
CrIM No.2285/2025
c/w
CRM(M) No.1232/2025
CrIM No.2286/2025**

*Date of pronouncement: 28.01.2026
Date of uploading: 30.01.2026*

**Jaffer Hussain, Aged 33 years
S/o Jan Mohd. R/o Gundi
Bhimdassa, Tehsil Gool and
District Ramban.**

.....Petitioner/Appellant(s)

Through: Mr. Zulkernain Sheikh, Advocate with
Mr. Saqib Javeed Khan, Advocate and
Ms. Sadhvi Sharma, Advocate.

Vs

01. UT of J&K through SHO Police Station Gool, Ramban.

**02. Shahista Bano, D/o Mohd. Shareef Khanday, R/o
Movolkote, Tehsil Gool and District Ramban.**

...Respondent(s)

Through: Mr. Eishaan Dadhichi, GA.

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

**JUDGMENT
28.01.2026 (ORAL)**

- 01.** Since both the petitions arise out of same FIR No.0079/2025, they are being disposed of by virtue of this common judgment.
- 02.** Petitioner has invoked inherent jurisdiction of this Court, under Section 528 BNS, for the quashment of FIR No.0079/2025, primarily on the ground of false implication and seeks enlargement on bail.
- 03.** Before a closure look at the grounds urged in the memo of petitions, it shall be expedient to have an overview of the background facts.
- 04.** The factual matrix of the prosecution story is that on 16.10.2025, the private respondent (the prosecutrix) at about 15.00 hours lodged a written complaint dated 14.10.2025 alleging *inter alia* that on 13.10.2025, while she was working in her cosmetic shop at Sangaldan, the accused/petitioner

came there, started quarrelling using abusive language and attempted to assault her. He passed derogatory remarks and attempted to outrage her modesty. The complainant also alleged that earlier on 01.10.2025, the accused had locked and confined her in her shop until he unlocked the shop after sometime. On the receipt of this report, impugned FIR came to be registered against the petitioner.

05. During investigation, the investigating agency besides other legal formalities, got statement of the prosecutrix recorded before concerned Magistrate on 17.10.2025 under Section 183 BNSS.

06. The prosecutrix stated that she has been knowing the petitioner/accused since 2019 as her former employer. She worked in his shop upto 2023. Later she established her own shop in the building of one Mohd. Saleem. It was alleged by the prosecutrix that in 2020, petitioner raped her by wrongfully confining her inside his shop. He continued to ravish her till 2023 and threatened her with dire consequences, should she disclose the incident to anybody. He also attempted to silence her by offering a sum of Rs. 20.00 lacs and a cosmetic shop. She went on to allege that petitioner even thereafter on the pretext of assisting her in business made an attempt to rape her once in the year 2024 and most recently on 13.10.2025. The prosecutrix revealed that on 14.10.2025, the petitioner accompanied by his wife, sister and sister-in-law came to her shop and in furtherance of common criminal intention, they dragged her and assaulted her with fists, kicks and blows. It was mentioned by the prosecutrix in her statement that she approached Police Post Sangaldan with a written complaint on 14.10.2025, but she narrated about the events of 13.10.2025 only because complaint was drafted on the same day and she mentioned about the sexual assault only to preserve social dignity and due to the fear of accused.

07. On the basis of evidence collected by the Investigating Agency and the statement of the prosecutrix recorded during investigation, the investigating agency has concluded that offences under Sections 376 IPC, 74/127 (2), 115 (2), 351 (3), 352 and 3(5) BNS were established against the petitioner.
08. The petitioner is aggrieved of the impugned FIR, primarily on the ground that allegations contained therein even if taken in entirety on face value would not disclose the commission of any offence, muchless offence under Section 376 IPC.
09. Heard arguments and perused the record.
10. Learned counsel for the petitioner has argued that subsequent narration of the prosecutrix in her statement recorded during investigation is an afterthought to frame the petitioner in a false case only after he came to be admitted to interim anticipatory bail on 17.10.2025 and an order of temporary injunction passed by a civil Court on 18.10.2025. According to the petitioner, the belated allegations of the prosecutrix in her statement recorded during investigation were tailored to implicate the petitioner to wreck vengeance.
11. Learned Government counsel on the other hand, has defended the impugned FIR and opposed the bail plea on the ground of gravity of the charge.
12. It is well settled in law that First Information Report is not an encyclopedia which must contain each and every minute detail relating to the occurrence. It is so because first informant need not necessarily be an eye witness or a victim so as to enable him to provide detail of the occurrence or identity of the assailant. The object of lodgment of First Information Report is to set the investigative machinery into motion, if the information so lodged *prima facie* discloses the commission of cognizable offence(s). This principle of

law has been clearly enunciated by Hon'ble Supreme Court in **Superintendent of Police, CBI Vs. Tapan Kumar Singh, AIR 2003 SC 4140**. Relevant excerpt of the judgment for the facility of reference reads as below:

“It is well settled that a First Information Report is not an encyclopedia, which must disclose all facts and details relating to the offence reported. An informant may lodge a report about the commission of an offence though he may not know the name of the victim or his assailant. He may not even know how the occurrence took place. A first informant need not necessarily be an eye witness so as to be able to disclose in great details all aspects of the offence committed. What is of significance is that the information given must disclose the commission of a cognizable offence and the information so lodged must provide a basis for the police officer to suspect the commission of a cognizable offence. At this stage it is enough if the police officer on the basis of the information given suspects the commission of a cognizable offence, and not that he must be convinced or satisfied that a cognizable offence has been committed. If he has reasons to suspect, on the basis of information received, that a cognizable offence may have been committed, he is bound to record the information and conduct an investigation. At this stage it is also not necessary for him to satisfy himself about the truthfulness of the information. It is only after a complete investigation that he may be able to report on the truthfulness or otherwise of the information. Similarly, even if the information does not furnish all the details, he must find out those details in the course of investigation and collect all the necessary evidence. The information given disclosing the commission of a cognizable offence only sets in motion the investigative machinery, with a view to collect all necessary evidence, and thereafter to take action in accordance with law. The true test is whether the information furnished provides a reason to suspect the commission of an offence, which the concerned police officer is empowered under Section 156 of the Code to investigate. If it does, he has no

option but to record the information and proceed to investigate the case either himself or depute any other competent officer to conduct the investigation. The question as to whether the report is true, whether it discloses full details regarding the manner of occurrence, whether the accused is named, and whether there is sufficient evidence to support the allegations are all matters which are alien to the consideration of the question whether the report discloses the commission of a cognizable offence. Even if the information does not give full details regarding these matters, the investigating officer is not absolved of his duty to investigate the case and discover the true facts, if he can.”

13. In the backdrop of aforesaid pronouncement, this Court in **Waseem Akram & Anr. V. UT of J&K & Anr; [Bail App No.60/2024 dated 06.05.2024]** held that while elaboration of allegations contained in the FIR by the complainant or the victim, later in their statement recorded during investigation is permissible, improvisation of allegations resulting in the creation of altogether new offences against accused cannot be allowed. Pertinently, on this ground, the petitioner, in the said case, was admitted to bail. Relevant excerpt captured in para 22 of the judgment for the facility of reference is extracted below:

“22. There is no dispute with regard to the proposition that FIR is not an encyclopedia which must disclose all facts and details relating to the offence reported and an informant may lodge a report about the commission of an offence though he/she may not know the name of victim or his assailant. The first informant need not necessarily be an eye witness so as to be able to disclose in great details all aspect of the offence committed. This is stated and reiterated by the Hon’ble Supreme Court in umpteen judgments. However, the distinction needs to be drawn where the first informant is himself or herself a victim. It is equally significant to bear in mind the distinction between elaboration and improvisation. While elaboration of what is stated in the FIR by the first

informant at the time of recording his or her statement is permissible, the same is not true of improvisation which has the result of creating a new offence against the person accused in the FIR.”

14. As factual narration of the present case would unfurl, the prosecutrix lodged a written complaint with Police Post Sangaldan alleging *inter alia* on 13.10.2025, while she was working in her cosmetic shop, the petitioner came there, started quarreling using abusive language, assaulted her, passed derogatory remarks and attempted to outrage her modesty. Making a reference of some earlier incident, the complainant also alleged that on 01.10.2025 also, the petitioner had locked and confined her in her shop, until he unlocked the shop and she was allowed to come out. During investigation, when investigating agency got statement of the prosecutrix recorded under Section 183 BNS, she levelled sweeping and omnibus allegations of rape against the petitioner. She alleged that she has been knowing the petitioner since 2019 as her employer. She worked in the shop of the petitioner upto 2023 and she was ravished by the petitioner on various occasions between the period from 2020 to 2023. The prosecutrix also alleged that petitioner attempted to silence her by offering Rs.20.00 lacs and a cosmetic shop and also by extending threats. It was further allegation of the prosecutrix that petitioner even thereafter on the pretext of assisting her in business made an attempt to rape her once in the year 2024 and most recently on 13.10.2025. To justify failure on her part to reveal these serious incidents of rape and recent attempts of rape on the part of the petitioner in her written complaint to the Police, the prosecutrix stated that she narrated about the incident of 13.10.2025 only because complaint was drafted on the same day and she mentioned about the sexual assault to preserve her social dignity and due to the fear of the accused.

15. Section 482 Cr.P.C, recognizes and preserves the powers, which are inherent in the High Court, to prevent abuse of the process of any court or to secure the ends of justice. It is a reminder to the High Court that it is a court of justice not merely in law but possess inherent powers to remove injustice. In the circumstances, court is obliged to evaluate whether ends of justice would justify the exercise of powers which inhere in it, before it embarks to form an opinion whether a criminal proceeding or a complaint or an FIR could be quashed or not.
16. It is settled proposition of law that while examining the FIR or complaint, sought to be quashed under Section 482 Cr.P.C., High Court cannot embark upon an enquiry or a mini trial as to the genuineness or otherwise of the allegations contained therein. In other words, this Court in exercise of its criminal jurisdiction under Section 482 Cr.P.C. cannot go into the merits of the allegations contained in the FIR or the complaint. The disputed question of facts that whether prosecutrix was raped by the petitioner during the period between 2020 to 2023 or in recent past in 2024 and 2025, and genuineness or otherwise of such delayed revelations cannot be resolved by this Court in exercise of inherent jurisdiction and such determination should be left to the wisdom of trial Court.
17. In the circumstances, the petition preferred by the petitioner for quashment of FIR is liable to be dismissed.
18. Be that as it may, provisions of Cr.P.C., now BNS, confer discretionary jurisdiction on Courts to consider a bail plea. Since this power is discretionary in nature, it is required to be exercised with circumspection. The discretionary jurisdiction of Court to grant or refuse a bail plea is regulated by settled principles of law, on the basis of facts and circumstances obtaining a case, including the gravity of charge, seriousness

of the offence, potential impact on the investigation, or trial, propensity on the part of accused to jump over bail and temper the prosecution evidence, the nature of accusations and the severity of punishment, which conviction may ultimately entail. Therefore, grant or refusal of bail must reflect a perfect balance between conflicting interests of shielding the society from the hazards of criminals and absolute adherence to the fundamental postulate of criminal jurisprudence regarding the presumption of innocence of accused till proven guilty.

19. Having regard to the fact that statement of the prosecutirx stands recorded during investigation, medical reports stand received and that applicant is behind the bars since his arrest on 18.10.2025, i.e. for more than three months, further incarceration of the petitioner is not going to serve any purpose of the investigating agency.
20. For the foregoing reasons, the petition for the quashment of impugned FIR is dismissed. However, petitioner is directed to be released on bail subject to furnishing of a surety bond in the amount of Rs.1.00 lac to the satisfaction of learned trial Court and a bond of personal recognizance of like amount subject to following terms and conditions that;
- i) he is not involved in any other offence of like nature;
 - ii) he shall not jump over bail and make an attempt to tamper the prosecution evidence or coerce the witnesses.
 - iii) he shall not leave territorial jurisdiction of the trial Court without prior permission.
 - iv) he shall remain punctual and regular during the trial.

(Rajesh Sekhri)
Judge

Jammu
28.01.2026
Eva

Whether the order is speaking or not?	Yes
Whether the order is reportable or not?	Yes