

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

Bail App No.01/2026

Announced on: 06.06.2026

Harbinder Singh, aged 45 years
S/o Late Sr. Ujjagar Singh
R/o Omara Morh, Tehsil & Distt.
Udhampur.

.....Petitioner(s)

Through: Mr. P.N.Raina, Sr. Advocate with
Mr. J.A.Hamal, Advocate

Vs

Union Territory of J&K
Through SHO Police Station,
Rehambal, District Udhampur

..... Respondent(s)

Through: Mr. Sumeet Bhatia, GA

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 is seeking bail in FIR No.118/2023 registered at Police Station, Rehambal for offences under Section 302/34 IPC, which is pending trial before the learned Additional Sessions Judge, Udhampur (hereinafter referred to as "the trial Court).
2. The facts giving rise to the filing of instant bail application are that on 1st April, 2023, on the basis of a telephone call received from the hospital, Udhampur report of suspicious death of deceased Ravi Kumar under Section 174 CRPC was registered in Police Station, Rehambal. During enquiry, dead body of the deceased was shifted to Mortuary room, autopsy was got conducted. During the inquest proceedings it has come to fore that Shubam Angral, Sadiq and Gourav Kumar, with common and

criminal intention and due to non-payment of one lakh, killed the deceased in Hope Centre. Consequently, inquest proceedings were converted into offence under Section 302/34 IPC and on 8th May, 2023, FIR No.118/2023 under Section 302/34 IPC was registered at Police Station, Rehambal.

3. During investigation, IO visited the spot, prepared the site plan, and recorded the statement of witnesses under Section 161 Cr.P.C., 1 DVDR was also seized through Naib Tehsildar and sent to CFSL Chandigarh. Accused, Gourav Kumar was arrested on 09.05.2023 and accused Shubam Angral and Sadiq were arrested on 10.05.2023. During questions, abovementioned accused revealed that the petitioner herein instructed them through a whatsapp video call to beat the deceased Ravi Kumar and show him the video. On the instruction of the petitioner herein, some cameras were turned off and they continued to beat the deceased from 27th March to 30th March, 2023. As per the above named accused persons, petitioner Harbinder Singh came to the centre and had beaten Ravi Kumar on 30.03.2023. The deceased was beaten with a wooden stick, a thick plastic pipe, petitioner kicked the deceased hard in the stomach due to which deceased Ravi Kumar was severely injured. Weapons of offence were recovered and seized on the basis of the disclosure statement made by the accused persons. Upon completion of the investigation, charge-sheet was laid against the petitioner and three others on 03.08.2023. Petitioner along with co-accused charged for the offence punishable under Section 302 IPC on 04.03.2024. The accused persons pleaded not guilty and claimed to be tried. Accordingly, the prosecution had been asked to adduce its evidence in support of its case.

4. During pendency of the trial, the petitioner has moved an application seeking his enlargement on temporary bail on the ground that he is innocent and has been implicated in a false case, he is the only source of income of the family, which came to be dismissed by the trial court vide order dated 10.11.2025 on the ground that the offences alleged against the petitioner are very serious, which entail life imprisonment or death sentence. It has further been stated that as per the record the petitioner is a habitual offender involved in various other crimes, as such, his enlargement on bail at this stage would definitely hamper and undermine the prosecution evidence.
5. Aggrieved by the rejection of bail application by the trial Court, the petitioner is before this court seeking bail on similar grounds as have been pleaded before the trial Court. It is stated that the evidence so far recorded by the trial Court does not even remotely connect the applicant with the commission of offence charged with.
6. 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 is that the petitioner is involved in a heinous crime, he is a habitual offender involved in several other crimes.
7. Mr. P.N.Raina, learned senior counsel appearing for the petitioner, would argue that the bail is the rule and jail is exception is primary rule of criminal jurisprudence. The petitioner is innocent and has not committed any offence, muchless the one alleged against him. It is stated that out of 37 witnesses cited by the prosecution, 23 have been examined before the trial Court. Learned counsel would further argue that there is nothing against the petitioner in the evidence so far recorded by the trial Court.

8. On the other hand, Mr. Sumeet Bhatia, learned Government Counsel appearing for the respondent, would argue that the petitioner is involved in a serious offence, which entail sentence of life imprisonment or death, as such, petitioner does not deserve any leniency from this Court. He has further argued that the petitioner is a notorious criminal and is involved in number of cases and in some cases trial is still pending. Moreover, as many as 14-15 prosecution witnesses are yet to be examined.
9. Heard learned counsel for the parties and perusal the material available on record.
9. the Supreme Court in the case of of **Y v. State of Rajasthan and another, (2022) 9 SCC 269**, reiterated the factors to be borne in mind while considering an application of bail enumerated in **Prasanta Kumar Sarar v. Ashis Chatterjee, (2010) 14 SCC 496**. Paragraph No.12 of the judgment is reproduced hereunder:

“12. The above principle has been consistently followed by this Court. In Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496,, this Court held as under:-

“9. We are of the opinion that the impugned order is clearly unsustainable. It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles [laid down in](#) a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v) character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii) reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail.

10. It is manifest that if the High Court does not advert to these relevant considerations and mechanically grants bail, the said order would suffer from the vice of non-application of mind, rendering it to be illegal.”

10. In a recent case titled **Sheikh Mehmood v. UT of J&K and others, 2026 INSC 611**, the Supreme Court has held that ‘bail is rule and jail is an exception’ is not an absolute rule. Paragraph No.31 is relevant for our purpose, which reads thus:

“31. Evidence on record before the Sessions Court till now has been noticed by us. “Bail is the rule and jail is an exception”, although is a cardinal principle of bail jurisprudence in India, it is not an absolute rule. The rule is sort of a guiding principle that should be kept in mind along with the facts of each case and statutory restrictions, if any, while considering a prayer for bail. In relation to offences such as the one under consideration, murder and conspiracy are serious offences. Section 437(1) of the CrPC bars grant of bail if reasonable grounds exist that the accused has committed an offence which is punishable with either death or life imprisonment. The cardinal rule has to be balanced with factors like prima facie case, gravity of offence, nature of evidence, antecedents, differentiation of roles, parity, delay in conclusion of trial, age of the accused, medical grounds, etc. However, bail could be declined if the offence is heinous and premeditated, there is grave apprehension of the witnesses being influenced or the evidence being tampered, a possibility of the accused absconding should he be granted bail and thereby evading trial, etc.”

11. From the above pronouncements of the Supreme Court, it clearly manifests that although bail is rule and jail is an exception is a cardinal principle of bail jurisprudence in India, it is not an absolute rule and the cardinal principle has to be balanced with factors like prima facie case, gravity of offence, nature of evidence, antecedents, differentiation of roles, parity, delay in conclusion of trial, age of the accused, medical grounds, etc. However, bail could be declined if the offence is heinous and premeditated, there is grave apprehension of the witnesses being influenced or the evidence being tampered, a possibility of the accused absconding should he be granted bail and thereby evading trial, etc.
12. In the present case, the petitioner has been charged with offence under Section 302 IPC. Out of the 37 cited prosecution witnesses, 23 have been examined before the trial Court and 14 prosecution witnesses are yet to be examined. The remaining prosecution witnesses, whose statements are yet to be recorded before the trial Court, are material witnesses and their testimonies are of paramount importance. Examination of PW-22-Mohd. Qasim, who is witnesses to the disclosure/confessional statement, has also been deferred.
13. It has been pleaded by the petitioner himself that he has been involved in nine other cases, out of which in six cases, the petitioner stands acquitted and in three cases trial is pending in different courts. While considering bail application it is settled law that gravity of offence, past antecedents etc are to be kept in mind. In the present case, the offence with which the petitioner has been charged is murder, which falls within the category of heinous offences. The petitioner, who, as per his own pleadings, is involved in number of cases other criminal cases, out of which some are

still pending trial, as such, keeping in view the antecedents of the petitioners, it cannot be said that he is not a habitual offender.

14. Even the case of the petitioner does not fall within the definition of delayed trial in view of the fact that out of the 37 witnesses 23 witnesses have been examined and only 14 material witnesses are yet to be examined, as such, the trial has been substantially progressed.
15. Keeping in view the accusation against the petitioner, severity of punishment for the offence with which the petitioner stood charged with and the antecedents of the petitioner, I am of the considered opinion that h petitioner does not deserve to be enlarged on bail at this stage.
16. Accordingly, the petition is dismissed being devoid of merit.

Jammu
06.06.2026
Vinod, PS

