

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

Bail App. No. 52/2026
CrIM No. 439/2026

Reserved on: 08.05.2026
Pronounced on: 13.05.2026
Uploaded on: 14.05.2026

Operative part or full Judgement: Full

Irfan Majid Zargar (42 Years)
S/O Ab. Majid Zargar,
Through his wife Aliya Gulzar (35 Years)
R/O Sheikh Mohalla Bonagam, Shopian

...Petitioner(s)

Through:

Mr. G. A. Lone, Sr. Adv. with
Mr. Mujeeb Andrabi, Adv.

Vs.

1. UT of J&K through
Crime Branch/J&K,
Economic Offences Wing,
Srinagar.

2. Senior Superintendent of Police,
Crime Branch/J&K,
Economic Offences Wing,
Srinagar.

3. Investigating Officer of FIR No.30/2025
Crime Branch/J&K,
Economic Offences Wing,
Srinagar.

...Respondent(s)

Through:

Mr. Mohsin S. Qadri, Sr. AAG with
Ms. Maha Majeed, AC

CORAM:

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

JUDGEMENT

01. Through the medium of the instant bail application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”), the applicant seeks the concession of bail in Case FIR No. 30/2025 (arising from FIR No. 168/2025 of P/S Shopian), registered at P/S

Economic Offences Wing (EOW), Crime Branch, Srinagar. The applicant is alleged to have committed the commission of offences punishable under Sections 316(5), 318(4), 336(2), 340(2), and 61(2) of the Bharatiya Nyaya Sanhita (BNS), read with Section 66(2) of the Information Technology Act.

02. Briefly stated, the facts leading to the filing of the present bail application are that the applicant-Irfan Majid Zargar, came to be arrested on 13.02.2026 in connection with FIR No. 168/2025, initially registered at Police Station Shopian and subsequently transferred to the Economic Offences Wing, Crime Branch Kashmir, Srinagar, where it was re-registered as Case FIR No. 30/2025 dated 13.02.2026. The allegations pertain to certain alleged financial irregularities and fraudulent transactions in HDFC Bank, Branch Shopian, during the period when the applicant was serving as Branch Head.
03. The prosecution case, in brief, is that fictitious entries were allegedly made in the account of Freshmen Foods Pvt. Ltd. unauthorized withdrawals amounting to approximately Rs.1.35 crore were allegedly effected through forged cheques; cash deposit certificates were issued without actual deposits; and certain loan accounts were shown as closed despite continuation of transactions therein. It is further alleged that lien release letters in respect of mortgaged properties were issued after the purported settlement of liabilities.
04. The applicant, however, contends that he has been falsely implicated in the present case and that the alleged entries and transactions were carried out by subordinate staff responsible for cash handling, ledger posting, and account operations. It is submitted that no direct evidence

connects him with the commission of the alleged offences and that no financial loss has actually been caused to the Bank. It is further asserted that he has fully cooperated with the investigation and is no longer required for custodial interrogation, particularly in view of the fact that he already stands remanded to judicial custody.

05. The applicant has further emphasized his serious medical condition, stating that he is a kidney transplant patient who underwent renal transplantation at Sir Ganga Ram Hospital, New Delhi, in the year 2015 and requires continuous medical supervision, immunosuppressive medication, hygienic conditions, and periodic follow-up treatment. It is pleaded that the continued detention of the applicant in jail poses a grave risk to his health and life.
06. The applicant accordingly seeks grant of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, inter alia, on the grounds of false implication, lack of incriminating evidence, completion of custodial investigation, permanent roots in society, absence of any likelihood of tampering with evidence or influencing witnesses, and the critical medical condition of the applicant, which is stated to be protected under Article 21 of the Constitution of India.
07. Learned counsel for the applicant submits that, under the Standard Operating Procedures (SOPs) of the Bank, the recording of ledger entries and physical handling of cash primarily falls within the domain of the Cashier and Hall Manager. It is thus contended that the applicant, in his administrative capacity as Branch Head, cannot be treated as the primary author or executor of the disputed transactions. Learned counsel further argues that no actual siphoning or

embezzlement of the Bank's funds has occurred and that, at best, the allegations disclose procedural irregularities rather than the commission of any criminal offence. It is also contended that certain subordinate employees, in an attempt to evade departmental as well as criminal liability, have sought to shift the blame upon the applicant.

08. It is further contended that the Investigating Officer, in an application dated 18.02.2026, specifically stated that he was no longer required for custodial interrogation and accordingly sought his remand to judicial custody. In such circumstances, the continued incarceration of the applicant is assailed as amounting to pre-trial punishment. A substantial ground urged by the applicant pertains to the precarious medical condition of the applicant. It is submitted that the applicant is a kidney transplant recipient since the year 2015 and is dependent upon life-long immunosuppressive medication. According to the applicant, the sterile environment, strict renal diet, and continuous medical supervision necessary for his survival are not available within the prison environment, thereby exposing him to grave risk of infection and possible organ failure.
09. It is pleaded that the applicant came to be arrested on 13.02.2026 and was subsequently remanded to judicial custody on 18.02.2026. Learned counsel submits that the investigation in the matter now stands completed and the charge-sheet has already been presented before the competent Court. Consequently, no further custodial interrogation of the applicant is stated to be necessary.
10. It is further pleaded that the learned Chief Judicial Magistrate, Shopian, vide order dated 04.03.2026, rejected the bail application of

the applicant primarily on the ground that he, being a bank official, had access to the internal systems and documents of the Bank and that there existed an apprehension that, in the event of his release on bail, he might tamper with prosecution evidence or influence witnesses.

11. Learned counsel, however, contends that such apprehension no longer survives once the investigation stands concluded and all relevant documentary as well as electronic evidence has already been seized and collected by the investigating agency. It is further submitted that the co-accused persons have already been enlarged on bail by the Court below vide order dated 06.05.2026 and, therefore, the applicant is also entitled to be admitted to bail on the principle of parity.
12. The applicant is stated to have deep roots in society, being a permanent resident of Shopian and the sole breadwinner of his family comprising his wife, elderly parents, and two minor children, all of whom are stated to be dependent upon him.
13. *Per contra*, the Respondent, represented by the Crime Branch, paints a starkly different picture, characterizing the applicant as the "principal architect" of a meticulously planned and organized financial scam. The investigation was triggered by a physical shortfall of Rs.1.35 Crores in the branch. The prosecution alleges that the applicant directed the posting of eight fictitious deposit transactions on 09.06.2025 to mask this deficit a claim supported by CCTV footage and bank records showing the total absence of the purported customers.
14. The prosecution further alleges that the accused cheated *M/S Freshman Foods Pvt. Ltd.* by withdrawing Rs. 1.35 Crores via forged

cheques, while simultaneously and deceptively issuing a "Lien Removal Letter" to the firm. The Forensic Science Laboratory (FSL) reports establish that the signatures of the firm's trustees on the cheques were forged. Crucially, the FSL opinion confirms that 36 out of 37 fake Fixed Deposit (FD) receipts, amounting to approximately Rs. 3 Crores, bear the handwriting and signatures of the applicant himself. The investigation concludes that the applicant, in conspiracy with others, caused a total wrongful loss of Rs. 5,86,76,487/- to 14 victims.

15. I have heard learned counsel for the parties at length and perused the material on record.
16. Learned senior counsel for the applicant, while augmenting the arguments, submitted that the entire case of the prosecution hinges on documentary evidence which is already in the safe custody of the investigating agency, thereby ruling out any possibility of tampering. It was further argued that "bail is the rule and jail is the exception," and since the I.O. has himself conceded that custodial interrogation is no longer required, the liberty of the applicant cannot be curtailed as a matter of punitive detention. Learned senior counsel underscored that the medical condition of the applicant specifically his status as a renal transplant survivor demands a level of hygiene and medical supervision that the jail authorities cannot provide, and any further delay in his release could result in an irreversible violation of his Right to Life under Article 21 of the Constitution.
17. In opposition, the learned counsel for the Respondent State submitted that the applicant, by misusing his high-ranking position in a premier

financial institution, has not only defrauded individual depositors but has also shaken the public's confidence in the banking system. It was argued that economic offences of such magnitude constitute a "class apart" and must be viewed with extreme provincial severity. It is further submitted that the FSL report unequivocally links the applicant to the forged instruments, establishing a *prima facie* case of a grave and heinous nature. It was emphasized that the applicant's influence over the witnesses, who are largely his former subordinates and local bank customers, remains a potent threat to the integrity of the trial, and as such, his release at this stage would be detrimental to the interests of justice.

18. The applicant has been in custody since 13.02.2026. The investigation in the matter admittedly stands concluded and charge-sheet has already been filed before the competent Court. Once the investigation is complete and the evidence stands collected, continued custodial detention of the applicant is ordinarily not required unless compelling circumstances exist. In *Satender Kumar Antil v. Central Bureau of Investigation (2022) 10 SCC 51*, the Hon'ble Supreme Court emphasized that after filing of the charge-sheet, unnecessary incarceration should be avoided and the Courts must lean in favour of liberty unless the prosecution demonstrates compelling reasons for continued detention.
19. The apprehension expressed by the prosecution regarding tampering with evidence also does not appear to carry substantial weight at this stage, particularly when the documentary and electronic evidence already stands seized and forms part of the charge-sheet. In *State of*

- Kerala v. Raneef (2011) 1 SCC 784*, the Hon'ble Supreme Court observed that where investigation is complete and there is no substantial possibility of the accused absconding or tampering with evidence, bail should ordinarily follow.
20. This Court also takes note of the fact that some of the co-accused namely, Ajali Jan, Rifat Samad Sofi, Javeed Ahmad Bhat, John Mohammad Bhat, Javid Iqbal Mir and Usman Nisar have already been granted bail by the Trial Court vide order dated 06.05.2026. The principle of parity is an important consideration in matters relating to bail and similarly situated accused cannot ordinarily be treated differently in absence of distinguishing circumstances. No exceptional circumstance has been pointed out by the prosecution which would justify denial of bail to the present applicant alone.
21. The settled legal position is that bail is the rule and jail is an exception. In *Dataram Singh v. State of Uttar Pradesh (2018) 3 SCC 22*, the Hon'ble Supreme Court reiterated that the grant of bail is a general rule and refusal is an exception, keeping in view the mandate of Article 21 of the Constitution of India safeguarding personal liberty.
22. Similarly, in *Sanjay Chandra v. Central Bureau of Investigation (2012) 1 SCC 40*, the Hon'ble Supreme Court held that the object of bail is neither punitive nor preventive and that deprivation of liberty before conviction has a substantial punitive content. The Court further observed that detention pending trial should not be resorted to merely as a matter of punishment. Paragraph Nos. 39, 40 and 46, being relevant are extracted as under:-

“39. Coming back to the facts of the present case, both the Courts have refused the request for grant of bail on two grounds : the primary ground is that offence alleged against the accused persons is very serious involving deep rooted planning in which, huge financial loss is caused to the State exchequer; the secondary ground is that the possibility of the accused persons tampering with the witnesses. In the present case, the charge is that of cheating and dishonestly inducing delivery of property, forgery for the purpose of cheating using as genuine a forged document. The punishment of the offence is punishment for a term which may extend to seven years. It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in determining whether to grant bail, both the seriousness of the charge and the severity of the punishment should be taken into consideration.

40. The grant or refusal to grant bail lies within the discretion of the Court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the Court, whether before or after conviction, to assure that he will submit to the jurisdiction of the Court and be in attendance thereon whenever his presence is required.

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46. We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardize the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI”.

23. The prime ground seeking grant of bail in this application is that the applicant had undergone a kidney transplant and that he requires continuous medical supervision with scheduled follow-up consultation. As on 02.07.2025, he had suffered serious setback in his

health; that he requires strict renal diet and immunosuppressive medication with strict hygienic practices and open space to minimize the risk of infection; that he had also been advised to avoid physical exertion and exposure to crowd on unsanitary environments to avoid the risk of infection. The applicant has placed on record the medical records pertaining to his having undergone kidney transplantation at Sir Ganga Ram Hospital, New Delhi, in the year 2015 and other documents evidencing his renal medical condition. In view of the serious ailment from which the applicant has suffered and for which he requires medical attention and precautions to maintain his health, in the considered opinion of this Court, applicant is entitled to be admitted to bail on medical grounds.

24. Without expressing any opinion on the merits of the case lest it may prejudice the trial, this Court is of the considered view that further incarceration of the accused is not warranted particularly when the investigation stands completed, charge-sheet has been filed, co-accused have already been enlarged on bail and the applicant is stated to be suffering from health ailments.

25. Accordingly, the present bail application is allowed and the applicant is directed to be released on bail in FIR No. 30/2025 subject to the following conditions that the applicant shall:

- (i) furnish personal bail bond in the sum of Rs.1,00,000/- with two sureties of the like amount, to the satisfaction of the trial Court;

- (ii) appear before the Trial Court on each and every date of hearing unless exempted, and cooperate with the trial proceedings and shall not misuse the concession of bail;
- (iii) not influence, threaten or contact the prosecution witnesses directly or indirectly;
- (iv) not tamper with the prosecution evidence in any manner, whatsoever;
- (v) not leave the Union Territory of Jammu & Kashmir without prior permission of the trial Court; and
- (vi) surrender his passport, if any, with the Trial Court.

26. It is made clear that any observation made hereinabove is only for the purpose of disposal of the present bail application and shall not be construed as an opinion on the merits of the case.

27. **Disposed of** accordingly.

(M. A. CHOWDHARY)
JUDGE

SRINAGAR

13.05.2026

Manzoor