

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

Bail App 58/2026 c/w Bail App 40/2026

PARVEENA BANO

...Petitioner(s)

Through: Mr. Syed Aabid Parvaiz, Advocate in Bail App No.58/2026
Mr. Zahid Hussain, Advocate with
Ms. Laila Khalid, Advocate in Bail App No.50/2026

Vs.

UNION TERRITORY THROUGH POLICE STATION ...Respondent(s)
ZAKOORA AND ANOTHER

Through: Ms. Rahella Khan, Assisting Counsel for R 1 and 2.
Mr. Rabinder Singh, Advocate for R 3.

CORAM:

HON'BLE MR JUSTICE RAJNESH OSWAL, JUDGE

ORDER

10.09.2026

1. Both the petitioners in Bail App No.58/2026 and Bail App No.40/2026 figure as accused in charge sheet titled "*UT of J&K and Others Vs. Zahoor Ahmad Rather and Others*", pending before the court of Presiding Officer Fast Track Court for POCSO Cases, Srinagar (for short 'the trial court'), for commission of offences under Sections 5/6, 17 of POCSO Act and Sections 68 and 127 of BNS.
2. As the bail applications preferred by both petitioners were rejected by the learned trial court by way of a common order dated

10.02.2026, both petitions are hereby disposed of by this common order.

3. Learned counsel for the petitioners submitted that the petitioners have been in custody since May 2025. Although their earlier bail applications were rejected vide order dated 03.10.2025, a change in circumstances prompted them to file fresh bail applications. These applications were nevertheless dismissed by the impugned common order, despite the victim's statement having been recorded. They further submitted that during investigation, the victim's statement was recorded twice before the police and once before the learned Magistrate, and in none of these statements did she implicate the petitioners. Instead, the petitioners were arrayed as accused solely on the statement of the main accused. Learned Counsel further urged that having been incarcerated for over a year, the petitioners are entitled to bail. It is also contended that both investigation and the victim's statement are vague regarding the date and time of the occurrence, particularly concerning the alleged use of the petitioners' residential houses. Lastly, counsel highlighted that the main accused has already been enlarged on bail, albeit on account of his mother's illness.

4. Per contra, Ms. Rahila, Khan, learned Assisting Counsel submits that the petitioners, in fact, want this Court to return findings on the merits of the case, which cannot be done while considering the bail applications. She has further submitted that notwithstanding

the recording of statement of the victim, there are material witnesses who are yet to be examined. She has further submitted that during investigation, Test Identification Parade was conducted and the victim identified both the petitioners in presence of the Executive Magistrate.

5. Mr. Rabinder Singh, learned counsel appearing for the victim, submitted that, in addition to committing the offence of rape at the school, the main accused sexually abused the minor victim at the petitioners' residential premises, for which the petitioners charged money from him.
6. Heard learned counsel for the parties and perused the record.
7. Record depicts that in terms of order dated 06.08.2025 the petitioners have been charged for the commission of offences under Section 5(f),(l), (p)/6 read with Section 16, 17 of the POCSO and 127, 49 BNS. The record further demonstrates that the petitioners had earlier filed bail applications before the learned trial court, which were rejected vide order dated 03.10.2025. Thereafter, the petitioners filed subsequent bail applications, which were also rejected on 10.02.2026.
8. The allegations against petitioner Rafeeqa, as set forth in the charge framed against her, are that she provided accommodation in her residential house for allowing the main accused Zahoor Ahmad Rather to commit the offence of rape upon the minor victim, for which she charged Rs.2,000/- from the main accused.

Likewise, similar allegations against the petitioner-Parveena Bano have been set forth in the charge against her, but with the difference in amount charged, which is Rs.1000/-.

9. The statement of the victim has been recorded and she has not turned hostile or has exonerated the petitioners. Though the minor victim has been examined but other witnesses are yet to be examined, most notably the Executive Magistrate in whose presence the Test Identification Parade (TIP) of these two petitioners was conducted, during which the victim identified them.

10. The contentions/grounds raised by the petitioners pertain to the merits of the case and it is settled law that while considering the application for grant of bail, evidence cannot be appreciated (See *Kalyan Chandra Sarkar vs. Rajesh Ranjan @ Pappu Yadav, AIR 2005 Supreme Court 42*). The petitioners, who are themselves female, allowed their residential premises to be used for the sexual exploitation of a minor victim for a mere few thousand rupees, and, thus, do not deserve the concession of bail at this stage, more particularly when the other witnesses are yet to be examined. The learned trial court also has observed that there are number of other witnesses, who are yet to be examined. Accordingly, these petitions are **dismissed** with liberty to the petitioners to approach the learned trial court for grant of bail by filing fresh bail

applications after the material witnesses pertaining to petitioners, out of 41 witnesses cited by the prosecution, are examined.

11. Needless to say, that in the event fresh bail applications are filed, the same be considered in accordance with law and without being influenced by any observation made by this Court, though this Court has not returned any finding on merits of the case.

SRINAGAR
10.09.2026
Ishaq

