

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

Pronounced on:07.07.2026

Uploaded on: 07.07.2026

Whether the operative part or full order is pronounced: **Full**

Bail App No.75/2026

GHULAM MOHAMMAD LONE **...PETITIONERS/APPELLANT(S)**

Through: – Mr. Zahid Hussain Dar, Advocate.

V.S.

UT OF J&K AND ANR.	...RESPONDENT(S)
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
29	
30	
31	
32	
33	
34	
35	
36	
37	
38	
39	
40	
41	
42	
43	
44	
45	
46	
47	
48	
49	
50	
51	
52	
53	
54	
55	
56	
57	
58	
59	
60	
61	
62	
63	
64	
65	
66	
67	
68	
69	
70	
71	
72	
73	
74	
75	
76	
77	
78	
79	
80	
81	
82	
83	
84	
85	
86	
87	
88	
89	
90	
91	
92	
93	
94	
95	
96	
97	
98	
99	
100	

Through: - Mr. Bikramdeep Singh, Dy. AG.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER(ORAL)
07.07.2026

1) The petitioner, through the medium of present petition, has sought bail in a case arising out of FIR No.258/2025 for offences under Section 64, 127(2), 351, 88, 61, 62, 127 (3), 89, 238, 239, 240, 5(3) of BNS, Section 4, 5(j)/6, 17, 19, 21 of POCSO Act registered with Police Station, Shopian, which is stated to be pending before the Court of learned Principal Sessions Judge, Shopian (hereinafter referred to as “the trial court”)

2) Briefly stated, as per the prosecution case, on 30.11.2025, the aforesaid FIR came to be registered by Police Station, Shopian, on the basis of a report lodged by father of the victim. It was alleged in the complaint lodged

by father of the victim that she was in friendship with co-accused Falak Jan. In the first week of June of the said year, the victim was invited by co-accused Falak Jan to her home at Hermain Shopian where she was treated well by accused Parveena and Falak Jan. It was alleged that during this visit, the victim met accused Sudais Ahmad Lone as also the petitioner herein, who happens to be the father of accused Sudais Ahmad Lone. It was further stated that thereafter the victim visited the house of the accused many times and eventually on one day, when the victim visited the house of the accused, she was led into a room where accused Sudais Ahmad Lone was already present. It was further alleged that the accused persons, acting in connivance, closed the door from outside and accused Sudais Ahmad Lone intimidated the victim and forcibly committed rape upon her. After this incident, the victim began to feel unwell and the family of the main accused, suspecting pregnancy, took her for medical tests including USG, which confirmed pregnancy of about 45 days. It was further alleged that accused Sudais Ahmad Lone had made false promise of marriage and simultaneously threatened to commit suicide if the victim discloses the crime to anyone and she was also being blackmailed by the accused.

3) In the report, it was further alleged that the victim was taken to accused Dr. Zahid who performed a medical procedure to terminate the pregnancy. After conducting the procedure, the condition of the victim became critical. It is further alleged that when the pregnancy of the victim was aborted, the accused persons became hostile to her and accused Sudais Ahmad Lone snatched her phone and deleted all evidence including call recordings, text messages, pictures etc. It was further alleged that victim was later on allowed to go to Srinagar but was sternly warned and threatened not to reveal anything to anyone.

4) On the basis of aforesaid report, FIR No.258/2025 was registered and investigation of the case was set into motion. After completion of investigation offences under Section 61, 64, 89, 127(3), 238, 239, 240, 351, 3(5) of BNS, Section 4, 5(j)(ii)/6, 21 of POCSO Act were found established against accused Sudais Ahmad Lone, offences under Section 61, 62, 89, 127(3), 238, 239, 240, 351 of BNS, Section 17, 19, 21 of POCSO Act were found established against the petitioner herein as also against accused Parveena Akhter, Falak Jan and Zahid Iqbal Shah, and the challan was laid before the learned trial court. A perusal of the record of the challan reveals that the case is pending for arguments on framing of charges.

5) It appears that female accused, namely, Parveena Akhter and Falak Jan, have been enlarged on anticipatory bail by this Court in terms of order dated 06.03.2026 and similarly, accused Zahid Iqbal Shah has also been enlarged on regular bail by the trial court in terms of order dated 06.03.2026. However, the petitioner, who has been arrested on 01.01.2026, has been declined bail by the learned trial court vide order dated 03.04.2026. So far as the main accused Sudais Ahmad Lone is concerned, he is still in custody and he has not been granted bail so far.

6) During investigation of the case, the statement of the victim was recorded under Section 183 of BNSS. In her statement she has stated that she was friendly with one of her relatives, namely, Falak. She has further stated that in the month of July, 2025, accused Falak enticed her to accompany her to her home. She was made to sleep in the corridor with the mother of accused Falak, who happens to be the sister of accused Sudais Ahmad Lone. In the morning, when mother of the accused got up and went out of the room, accused Sudais Ahmad Lone, bolted the room from inside, gagged mouth of the victim and lowered her trouser and thereafter committed rape upon her. When main accused had completed the act of sexual intercourse upon her, she told him that she would narrate everything

to his mother but he told her that he has taken her nude photographs and if she narrates the occurrence to anyone, it would bring disrepute to her. The victim further stated that because of threat and intimidation, she did not narrate the incident to anyone and proceeded to Srinagar. In the meantime, family members of the main accused were in constant contact with her because they were apprehending that she may have got pregnant. She was being threatened and intimidated by the family members of the main accused.

7) She further stated that accused Zahid, who is a doctor, took her to L. D. Hospital, Srinagar, and prepared a fake prescription slip, whereafter the victim was subjected to medical tests which showed that she was pregnant. Thereafter accused Dr. Zahid compelled her to take medicine for termination of pregnancy and for this purpose, accused Sudais Ahmad Lone took her to Dr. Zahid to Shopian District Hospital. The victim further stated that Dr. Zahid threatened her in case she did not take the medicine. Because of the threats extended by the main accused, she took medicine, which result in bleeding to her. She was given another kit of medicine which also led to her bleeding. One Mohammad Iqbal, who is operating a medical shop, advised her to take medicine through vagina but she

refused. At this juncture, the petitioner, who happens to be father of Sudais Ahmad Lone and a police official, forced her to take medicine through vagina. Thereafter she was taken to hospital at Anantnag where she was subjected to DNC. The victim further stated that accused Sudais Ahmad Lone and his father, the petitioner herein, his sister accused Falak, gave a beating to her and accused Sudais again tried to commit rape upon her. She has also stated that the petitioner abused her.

8) The petitioner has sought bail on the grounds that the role attributed to him in the charge sheet is very limited in nature, inasmuch as there is no allegation against him that he has either connived with the commission of rape upon the victim or that he has committed rape upon her. It has been contended that the victim has made sweeping and omnibus allegations against whole of the family of the main accused just to rope them in the criminal case. It has also been contended that even if it is assumed that the allegations made in the charge sheet are correct, still then role of the petitioner is confined only to the extent of termination of pregnancy of the victim. Therefore, once investigation of the case is complete, he cannot be refused bail.

9) The respondent-State has filed objections to the bail application, in which, after narrating the allegations made in the challan against the petitioner and co-accused, it has been contended that the offences alleged against the petitioner are of an extremely grave and heinous nature involving sexual assault of a minor girl, hence he does not deserve the concession of bail. It has been contended that there is material on record to show that the petitioner is involved in the conspiracy to commit rape upon the victim who is a minor girl aged 17 years, hence the bail application deserves to be rejected.

10) I have heard learned counsel for the parties and perused record of the case including record of the trial court.

11) Before coming to the other aspects of the case, it is necessary to deal with the contention of the respondent that the instant bail application is not maintainable because the earlier bail application of the petitioner, after filing of the charge sheet, stands rejected by the trial court and, as such, there is no change of circumstances.

12) The question that arises for consideration is whether or not successive bail application will lie before this Court. The law on this issue is very clear that if an earlier application was rejected by an inferior court, the superior

court can always entertain the successive bail application. In this behalf, I am supported by the ratio laid down by the Supreme Court in the case titled **Gurcharan Singh & Ors vs. State (Delhi Administration), AIR 1978 SC 179** which has been followed by the Bombay High Court in the case of **Devi Das Raghu Nath Naik v. State, (1987) 3 Crimes 363**. Thus, the rejection of a bail application by Sessions Court does not operate as a bar for the High Court to entertain a similar application under Section 439 Cr. P. C/483 BNSS on the same facts and for the same offence.

13) Having held that the instant bail application is maintainable, let us now proceed to deal with the merits of the application. So far as the principles governing grant or refusal of bail are concerned, the same have been elucidated in a large number of judgments rendered by the Supreme Court and this Court. The principles laid down in these judicial precedents can be summarized as under:

- (i) *The gravity of the offence and the nature of of the accusation including the frivolity of punishment in a case of conviction;*
- (ii) *The position and status of the accused vis-à-vis the victim and the witnesses;*
- (iii) *The likelihood of the accused fleeing from justice;*
- (iv) *The possibility of the accused tampering with the evidence and/or witnesses and obstructing the course of justice;*
- (v) *The possibility of repetition of the offence;*

- (vi) *Prima facie satisfaction of the Court in support of the charge including frivolity of the charge;*
- (vii) *Stage of the investigation;*
- (viii) *Larger interest of the public or the State;*

14) As per the charge sheet laid before the trial court, offences under Section 3, 5, 7 and 9 of the POCSO Act have not been established against the petitioner herein, as such, the provisions contained in Sections 29 and 30 of the said act are not attracted to the case of the petitioner, against whom offences under Section 17, 19, and 21 of the POCSO Act have been found established. Thus, his case has to be treated on a different footing than the case of main accused Sudais Ahmad Lone, against whom offences under Section 4, 5(j)(ii)/6, 21 of the POCSO Act have also been found established, thereby attracting the provisions contained in Section 29 and 30 of the said Act.

15) With the aforesaid position in mind, let us now analyse the facts of the present case. A cursory look at the statement of the victim recorded under Section 183 of BNS would reveal that role of the petitioner herein is confined to the termination of her pregnancy, inasmuch as, according to the victim, the petitioner threatened her and made her to taker medicine through her vagina when she had refused to do so. Thus, the petitioner is alleged to have committed the offence under Section 89 of BNS which carries punishment

of imprisonment for life or imprisonment of either description for a term which may extend to ten years. There is no legal or statutory bar in granting bail to an accused who has been charged for offence under Section 89 of BNS.

16) In the charge sheet it is alleged that the petitioner has connived with the main accused who has committed rape upon the victim. In this regard, learned counsel for the petitioner has vehemently contended that there is hardly any evidence or material on record to show that the petitioner has connived with his son in commission of rape upon the victim. He has submitted that it is highly improbable that a father would aid and abet his son in commission of rape. It has also been contended that a bare perusal of the statement of the victim would reveal that the petitioner has come on the scene only when the victim was made to take medicine for termination of her pregnancy through vagina, therefore, it cannot be stated that the petitioner has connived in the commission of rape upon the victim.

17) Without going into the merits of the aforesaid submission made by learned counsel for the petitioner, lest it may prejudice the case of either party before the trial court, it does appear that there is a prima facie merit in the submission made by learned counsel for the petitioner.

18) Apart from the above, investigation of the case is complete. The petitioner, who is, admittedly, not the main accused, has been in custody for the last more than six months and the co-accused Zahid Iqbal Shah, whose role is similar to that of the petitioner, has been enlarged on bail by the learned trial court. In these circumstances, denying concession of bail to the petitioner would amount to pre-trial punishment upon him, which is impermissible in law.

19) For what has been discussed hereinbefore, the petition is allowed and the petitioner is admitted to bail subject to the following conditions:

- (i) *That he shall furnish personal bond in the amount of Rs.50,000/ with two sureties of the like amount to the satisfaction of the learned trial court;*
- (ii) *That he shall appear before the learned trial court on each and every date of hearing.*
- (iii) *That he shall not leave the territorial limits of the Union Territory of J&K without prior permission of the learned trial court;*
- (iv) *That he shall not intimidate or tamper with prosecution witnesses/evidence.*

20) The bail application shall stand **disposed** of.

(SANJAY DHAR)
JUDGE

Srinagar,
07.07.2026
"Bhat Altaf-Secretary"

Whether the ORDER is reportable: Yes/No