

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

**CRM (M) No. 352/2026
CrIM No. 814/2026**

Union Territory of Jammu & Kashmir

... Petitioner(s)

Through: -

Mr Bikramdeep Singh, Dy. AG with
Ms Nowbahar Khan, Assisting Counsel.

V/s

Ajeeda Bano & Ors.

... Respondent(s)

CORAM:

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

(ORDER)

02.06.2026

01. The Petitioner-Union Territory of Jammu & Kashmir, through Station House Officer, Police Station, Budgam, has filed the present Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [BNSS], seeking cancellation of bail granted in favour of the Respondents herein by the Fast Track Court of learned Additional District Judge, Budgam, vide Order dated 27th of March, 2025, in a case titled '**Union Territory of J&K through SHO P/S Budgam v. Ajeeda Bano & Ors.**' bearing FIR No. 370/2022 of Police Station, Budgam, for the commission of offences punishable under Sections 370 IPC and 14-A read with 14-C of the Foreigners Act, 1946.

02. The brief facts of the case, as emanate from the perusal of the instant Petition, are that, on 27th of October, 2022, Police Station, Budgam received information from reliable sources that Shameem Ahmad Bhat S/O Abdul Rehman Bhat; Shugufta W/O Bashir Ahmad Wani; and Asmat W/O Shafeeq Ahmad Wani, all Residents of Dolipora, Paharthan, Budgam, are

involved in the business of illegal human trafficking and are bringing women into the Union Territory of Jammu & Kashmir for the purpose of flesh trade and that they had recently brought another girl for this purpose, who is presently in their custody.

03. On the basis of the aforesaid information, a case vide FIR No. 370/2022 was registered in Police Station, Budgam under Section 370 IPC and investigation set into motion. During the course of investigation, search of the residential houses of the accused was conducted, as a result whereof, six non-local foreigner girls were recovered from accused-Shameem Ahmad Bhat; seven foreigner girls were recovered from the house of accused-Shugufta; and one foreigner girl was recovered from the house of accused-Asmat.

04. Accordingly, recovery memos/ site plans are stated to have been prepared and the non-local foreigner girls interrogated, during which it came to limelight that the accused had brought them illegally into the Union Territory of Jammu & Kashmir and kept them in their houses with the intention of compelling them into prostitution. Statements of the witnesses acquainted with the facts of the case were recorded.

05. It is also stated in the Petition that during the course of further investigation, it transpired that all the recovered girls were brought from Burma (Myanmar) by Riyaz Ahmad (*alias* Arman), who then handed them over to Shameem Ahmad, whereafter, they were exploited in flesh trade.

06. It is further pleaded the accused/ Respondents herein filed a bail application before the Court of learned Additional District Judge (Fast Track) Budgam and the Trial Court, without considering the Objections filed by the Prosecution, passed Order dated 27th of March, 2025 read with Order dated 27th of June, 2025, thereby enlarging the accused persons on bail.

07. The Petitioner-UT has, now, through the medium of the instant Petition, assailed the aforesaid Orders passed by the Trial Court enlarging

the accused/ Respondents herein on bail, primarily, on the ground that the learned Trial Court has passed the said Orders without appreciating the incrimination material/ evidence collected in the case by the Investigating Agency, as produced before the Court by the Prosecution. It is further submitted that the Trial Court has failed to take into consideration the gravity and seriousness of the offences involved in the case relating to cross-border human trafficking, conspiracy and illegal movement of foreign nationals into Indian Territory without any travel documents. It is also contended that the accused/ Respondents are originally residents of Burma (Myanmar) and have entered the Union Territory of Jammu & Kashmir illegally, as such, the Investigating Agency has invoked Sections 14-A and 14-C of the Foreigners Act, 1946 against them, therefore, as per the mandate of the Act of 1946, they are to be kept at a specified place designated by the Government in this regard, unless they are deported back to the country of their origin as per law.

08. Heard Mr Bikramdeep Singh, the learned Deputy Advocate General, on behalf of the Petitioner-Union Territory and perused the pleadings available on record.

09. From the perusal of the impugned Orders passed by the Trial Court, it is manifest that the Trial Court has granted bail in favour of the accused/ Respondents herein on two grounds *viz.*: (i) parity; and (ii) pre-trial incarceration and delay in trial.

10. Insofar as the first ground of parity is concerned, the Trial Court has observed that since the co-accused in the case have already been enlarged on bail, therefore, it would not be appropriate to apply two different yardsticks against the accused alleged to have been involved in the same commission of crime; while as, with respect to the second ground of pre-trial incarceration and delay in trial, the Trial Court has held that the way the Prosecution is leading evidence in the case, it may take another two to three years to exhaust the calendar of evidence by the Prosecution, thus, such delay would amount to long incarceration, if the accused are allowed

to remain in custody. Both the observations made by the Trial Court for the purposes of enlarging the accused/ Respondents herein on bail, in the considered opinion of this Court, are fully in consonance with settled legal position governing grant or otherwise of bail.

11. All the Respondents herein are women and are charged of the offence punishable under Section 14-A of the Foreigners Act with a punishment of imprisonment from two to eight years. The main accused, who were locals, had been admitted to bail, before the Respondents herein, who being foreign nationals of Myanmar, and were alleged to be used by the main accused in human trafficking. Their bail orders, though, were not sought to be cancelled. Moreover, no violation or contravention of the conditions of the bail was reported, neither there is any apprehension in respect of the Respondents herein, being foreign natives, to tamper with the Prosecution evidence. The contention of the UT of J&K that the Respondents herein, being illegal immigrants, are liable to be detained in detention centres is also not acceptable, inasmuch as, such an arrangement cannot be made by denying grant of bail in their favour, for the reason that the grant of bail cannot be an impediment in any other legal action by the Executive in this behalf to deal with the unauthorized foreign nationals.

12. It is further seen from the Orders impugned themselves that the Trial Court, while passing the impugned Order and enlarging the accused/ Respondents herein on bail, has taken note of the fact that after framing of the charges against the accused on 5th of October, 2023 till the date of passing of the impugned Orders, i.e., 27th of March, 2025, the Prosecution succeeded to examine only two out of the nine listed witnesses, during the entire trial period of about one year and five months. Not only this, the Trial Court has also referred to the fact that the punishment prescribed for the commission of crime under Section 14-A of the Foreigners Act, 1946 is two years which may extend upto eight years. In such a situation, it cannot be said that the Orders passed by the Trial Court are bad in the eye of law or against the settled legal position governing the subject. Instead, taking an overall view of the matter, the impugned Orders passed by the Court below,

enlarging the accused/ Respondents hereon on bail, have been passed keeping in view the facts of the case as well as the legal position governing the subject and, more so, no good ground has been projected by the Petitioner-UT before this Court as would warrant cancellation of bail granted in favour of the accused/ Respondents herein.

13. In view of above, I do not find any merit in this Petition, which is, accordingly, **dismissed** in *limine*, along with the connected CrIM.

SRINAGAR
June 2nd, 2026
"TAHIR"

(M. A. CHOWDHARY)
JUDGE

