

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

Bail App 105/2025 CrIM(841/2025)

ZAHID AHMAD BHAT

...Appellant(s)/Petitioner(s)

Through: Mr. Aswad Attar, Advocate.

Vs.

**UNION TERRITORY THROUGH POLICE STATION
ANANTNAG AND ORS.**

...Respondent(s)

Through: None.

CORAM:

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

ORDER

27.04.2026

1. Petitioner invoked the extraordinary jurisdiction of the Court u/s 482 of BNSS seeking protection in anticipation of his arrest in FIR No. 0097/2025 registered under Section 303 of BNS and Section 4/21 of the Mines and Minerals (Development and Regulations) Act, 1957 (for short "the Act") mainly on the ground that as per the Rules framed under the Act known as the Jammu and Kashmir Minor Mineral Concession, Storage, Transportation of Minerals, and Prevention of Illegal Mining Rules 2016, a formal FIR can be registered only against a third time offender, however, insofar as the petitioner is concerned, he is not involved in any such offence previously. Therefore, FIR registered against the petitioner is de hors the rules having statutory force. Learned counsel further submits that the offence under section 303 BNS is the offshoot of alleged mining activities by the petitioner.
2. The petitioner was admitted to bail in anticipation of arrest by this court vide order dated 25.06.2025, subject to objections from the other side. The respondents, however, despite several opportunities have failed to file any reply/objections to the bail application filed by the petitioner so far.

3. Chapter XI of the Rules deals with illegal or unauthorized mining and if a person is found to be indulging in any such offence for the third time only, the officer concerned shall lodge the FIR as per Rule 75.3 which is reproduced as under:

“75.3. Wherever a person is found to be indulging in such offence for the third time or more, the officer concerned shall lodge an FIR and handover all such tools, equipment's, vehicles or any other things used for such un-authorized operation to the police. Any such offence shall entail;

(a) confiscation of all such tools, equipment's, vehicles or any other things used for such un-authorized operation for a minimum period of thirty days or more, and

(b) Pecuniary penalty and punishment for the offence as provided under Section 21, 23A & Section 23B of the Mines and Minerals (Development & Regulation) Act, 1957.”

4. Since the petitioner has raised legal grounds for not being liable to be prosecuted under Section 303 of BNS and Section 4/21 of the Mines and Minerals Act 1957, as discussed hereinabove and the respondents have not raised any objections with regard to contravention of any of the bail conditions.

5. Viewed thus, this Court is of the considered opinion that the petitioner is entitled to be admitted to bail in anticipation of his arrest. The interim order dated 25.06.2025, is thus ordered to be made absolute, subject to the same terms and conditions.

6. Bail application is **disposed of**, along with pending application(s).

(M. A. CHOWDHARY)
JUDGE

SRINAGAR:

27.04.2026

“Hilal”