

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

Bail App 125/2025

**UNION TERRITORY THROUGH
POLICE STATION SUMBAL**

...Petitioner/Appellant(s)

Through: Mr. Jahangir A Dar, GA

Vs.

GHULAM AHMAD ARMOO

...Respondent(s)

Through: Mr. Sheikh Hilal, Advocate

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

ORDER
04.05.2026

1. It is submitted by learned counsel for the petitioner that the order passed by the Trial Court enlarging the respondent on bail is, on the face of it, cryptic and does not disclose any reasons. It is contended that at the time when the bail application of the respondent was taken up for consideration, even the victim had not been examined. Therefore, the Trial Court proceeded to enlarge the respondent on bail without satisfying itself as to the gravity of the offence and the nature of the accusations levelled against the respondent.
2. Per contra, learned counsel for the respondent submits that the case is, on the face of it, false, which is evident from the fact that the victim, during the course of the trial, has resiled from her earlier statement and has not identified the respondent as the perpetrator of the alleged crime. It is further submitted that the certified copy of

the statement of the victim has been placed on record along with the objections.

3. I have heard learned counsel for the parties and perused the material available on record.
4. In terms of the impugned order, the respondent, who is facing trial for offences under Sections 115(2), 126(2), and 64 of the Bharatiya Nyaya Sanhita, 2023, has been enlarged on bail on the ground that the complainant has not supported the prosecution case, and therefore, the respondent has been able to make out a strong prima facie case for grant of bail.
5. As per the prosecution case reflected in the charge sheet, it is alleged that on 28.07.2024, the victim, while proceeding to her aunt's house and passing near Gonchipora Charai, was intercepted by an unknown young man who blocked her path and prevented her from moving forward. The said individual allegedly insisted that she make a phone call, and upon her refusal, physically assaulted her and subjected her to forcible sexual intercourse. The matter was reported to her brother, who lodged the FIR. The victim was subjected to medical examination, which indicated that she had been subjected to sexual assault, and accordingly, Section 64 of the Bharatiya Nyaya Sanhita was invoked. During the course of investigation, the respondent was arrested as the alleged perpetrator of the offence.
6. It is an admitted position that the complainant has not supported the prosecution case and has denied the involvement of the respondent, having failed to identify him as the culprit. Furthermore, after the

respondent was admitted to bail, the victim was also examined and she too did not support the prosecution case. She has failed to identify the respondent in Court as the perpetrator of the offence and, rather, her statement suggests that the allegations pertain to some third person who is not the respondent.

7. Though the allegations are grave in nature, yet, taking into consideration the statements of the complainant as well as the victim, the respondent has been able to make out a strong prima facie case for grant of bail. In that background, particularly when the impugned order granting bail was passed on 24.02.2025 and thereafter the victim has also been examined and has not supported the prosecution case, no useful purpose would be served by remanding the respondent to custody, even if the present application were to be allowed.
8. It was argued by learned counsel for the petitioner that the respondent ought not to have been granted bail as the statement of the victim had not been recorded at the relevant time. While it is true that the Trial Court ought to have awaited the examination of the victim, however, in view of the fact that the complainant himself had not supported the prosecution case, it cannot be said that the discretion exercised by the Trial Court in granting bail was unjustified.
9. Be that as it may, in view of the subsequent development wherein the victim herself has not supported the prosecution case, no purpose would be served in entertaining the present application

seeking recall of the bail order, particularly when the respondent is participating in the trial and there is no allegation of obstruction.

10. It was further contended that the victim was examined after a considerable delay and that, after being enlarged on bail, the respondent may have influenced the victim. Such an assertion, however, is without any legal foundation. Even assuming such a possibility, the same could have been a matter of consideration had the prosecution been diligent in ensuring the prompt examination of the victim. The prosecution cannot take advantage of its own delay and attribute motives to the respondent.

11. In the given circumstances, I find no merit in the present application and the same is accordingly *dismissed*. It is, however, clarified that any observations made herein shall not be construed as an expression on the merits of the case and shall not prejudice the trial before the Trial Court.

(SANJAY PARIHAR)
JUDGE

SRINAGAR:

04.05.2026

Imtiyaz, PS