

Serial No. 115.
Supple Cause List.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM (M) No. 494/2026.
CrIM No. 1140/2026

SARA BEGUM AND OTHERS.

...Petitioner (s)

Through: Mr. Sheikh Manzoor, Advocate.

VERSUS

SENIOR SUPERINTENDENT OF POLICE KUPWARA AND OTHERS.

...Respondent(s)

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

ORDER
17-07-2026

01. The petitioners have challenged FIR No. 215/2026 registered at Police Station Kupwara, alleging commission of offences under Sections 109, 191 (2) and 132 of Bharatiya Nyaya Sanhita, 2023 (BNS).
02. As per the allegations made in the impugned FIR, on 9th of July, 2026, when a police party proceeded to the residence of one Ab. Majeed Mir, against whom non-bailable warrants of arrest had been issued by the learned Principal Sessions Judge, Srinagar, the said accused was found standing outside his residential house. However, when the police party attempted to execute the non-bailable warrants of arrest, his family members, including the petitioners herein, jointly attacked the police party and forcibly rescued the accused from police and concealed him inside the house. It is further alleged in the impugned FIR that during the incident, the eldest son of the accused-petitioner No. 2 herein, armed himself with a sharp-edged axe and attempted to assault the complainant,

who was accompanying the police party. However, the complainant was saved by the police officials, by snatching the axe from the petitioner No.2.

03. Learned counsel for the petitioners has submitted that the allegations made in the impugned FIR are absolutely bogus and frivolous. He has contended that, in fact, the accused was severely beaten by the police party, which fact has been noticed by the learned Judicial Magistrate 1st Class, Kupwara, while considering the remand application filed by the police. It has further been submitted that even the petitioners were subjected to beating and thrashing by the police party at the time of the alleged incident.

04. While considering the issue as to whether this Court, in exercise of its powers under Section 528 of the BNSS, ought to interfere with the investigation of the case, it has to be borne in mind that it is only in situations where the allegations made in the FIR or the complaint do not constitute a cognizable offence, or where there is a legal or statutory bar to the registration of the FIR/ investigation of the case, that this Court can exercise its inherent powers. Once the allegations made in the FIR or complaint disclose commission of cognizable offences, it becomes the statutory duty of the investigating agency to undertake the investigation of the case. The defence of the accused cannot be gone into by this Court while exercising its powers under Section 528 of the BNSS by holding a mini-trial.

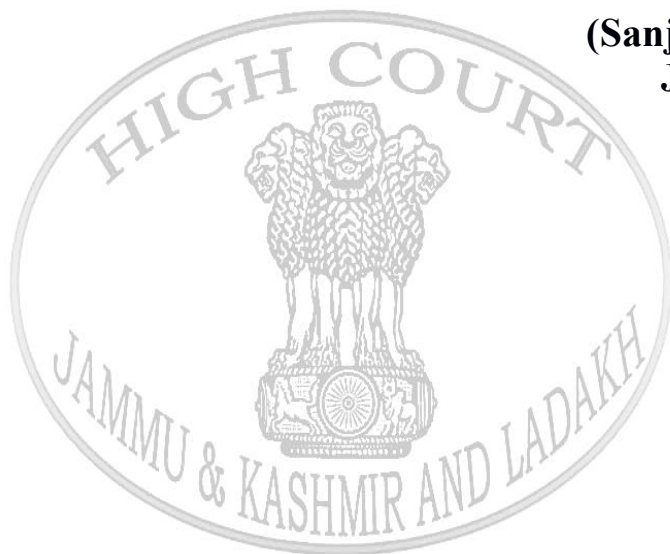
05. The question as to whether the incident occurred on account of resistance offered by the petitioners to the arrest of the accused, or whether the police officials exceeded their powers while executing the warrants, can be

determined only during the course of investigation of the case and the said issue cannot be determined by this Court in the present proceedings.

06. In any case, the grievance of the petitioners that the police exceeded its powers has already been taken note of by the learned Judicial Magistrate 1st Class, Kupwara, and he has directed the Senior Superintendent of Police to conduct an inquiry into the matter and has sought a report. Therefore, this Court would not like to express any opinion on this aspect of the matter.

07. In view of what has been discussed hereinabove, I do not find any merit in this petition. Accordingly, the same is *dismissed* along with connected CM.

SRINAGAR
17-07-2026
Showkat Khan



(Sanjay Dhar)
Judge