

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

CRM(M) 775/2026
CrIM(1760/2026)

WAHAB UL DIN AWAN

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

Through: Mr. Suhaib Bin Yousuf, Advocate

Vs.

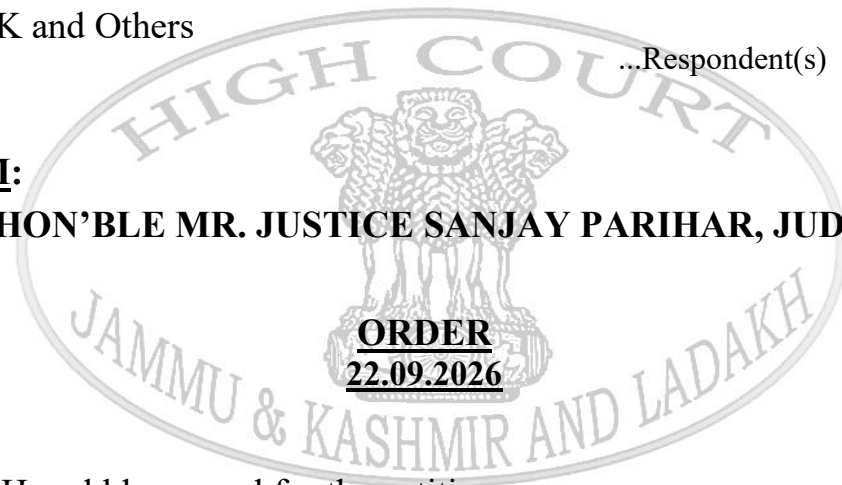
UT of JK and Others

...Respondent(s)

Through:

CORAM:

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE



- 1.** Heard ld. counsel for the petitioner.
- 2.** The case set up by the petitioner is that the FIR lodged by the complainant is an afterthought. It is contended that neither the date of the alleged occurrence finds mention in the FIR nor in the statement of the complainant recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and, therefore, the prosecution case is, on the face of it, false. The chargesheet, however, reveals that, on the basis of a written application submitted by the complainant, FIR No. 75/2025 came to be registered on 26.07.2025 at Police Station Rajpura, Pulwama, for offences under Sections 64, 351(2) and 79 of the Bharatiya Nyaya Sanhita, 2023 (BNS). As per the prosecution case, at about 1820 hours on the same day, a written report was received at Police Post

Sangrwani disclosing the commission of cognizable offences. It was alleged therein that the complainant/victim was acquainted with the petitioner, who had been visiting her house since the year 2023, being a relative of her sister-in-law (Devrani), namely, Shahnaz.

3. It is further alleged that, as the husband of the complainant is a driver by profession and would ordinarily remain away from home, the petitioner started making advances towards her and would also contact her over the telephone. According to the prosecution, in the month of January 2025, the petitioner visited the house of the complainant, forcibly disrobed her and subjected her to sexual intercourse against her consent. It is further alleged that, thereafter, he threatened her with dire consequences and warned her that, in the event she disclosed the occurrence to her husband, he would ruin both her and her husband. Owing to the alleged threats and the consequent fear, the complainant did not immediately disclose the occurrence to her husband, who, as noticed above, would mostly remain away from home. Upon his return, however, she narrated the incident to him, whereafter the matter was reported to the police, culminating in the registration of the FIR.

4. The record further indicates that the petitioner did not join the investigation and is stated to have absconded after registration of the FIR. The investigation, therefore, proceeded in his absence. On the basis of the material collected during investigation, including the statement of the victim recorded before the Magistrate, her medical examination and the statements of other witnesses, the

Investigating Agency concluded that the offences alleged against the petitioner were made out. Consequently, the chargesheet came to be presented before the Court of the Additional Sessions Judge, Pulwama, where the petitioner has been summoned to face trial. It is at this stage that the petitioner has approached this Court seeking quashment of the chargesheet as well as the proceedings emanating therefrom, principally on the ground that he has been falsely implicated and by pointing out certain alleged infirmities in the prosecution case.

5. Be that as it may, when confronted with the fact that the petitioner remained absent throughout the investigation and continued to remain so even after presentation of the chargesheet, notwithstanding the issuance of notices and bailable warrants, the counsel for the petitioner submitted that, having regard to the gravity of the offences alleged against him and apprehending coercive action at the hands of the Court, the petitioner had refrained from submitting himself to the process of law.
6. Having regard to the nature and gravity of the accusations levelled against the petitioner, coupled with the fact that the investigation already stands concluded and the chargesheet has been presented before the competent Court, this Court finds no justification for extending any indulgence to the petitioner at this stage. If the petitioner maintains that he is innocent and has been falsely implicated, the appropriate course for him is to submit to the jurisdiction of the Trial Court and avail such remedies as are available to him in law. The pleas raised in the present petition,

including those concerning the alleged infirmities in the prosecution case, may appropriately be urged before the Trial Court at the stage of consideration of charge/discharge, where they shall be examined in accordance with law.

7. In exercise of jurisdiction for quashing criminal proceedings, this Court cannot embark upon an appreciation of disputed questions of fact or undertake a meticulous evaluation of the evidentiary material with a view to determining whether the prosecution case is true or false. Such matters are ordinarily required to be examined by the Trial Court on the basis of the material placed before it and, where necessary, upon appreciation of the evidence led during trial. When confronted with the aforesaid position, learned counsel for the petitioner submitted that the petitioner is ready and willing to appear before the Trial Court and participate in the proceedings, provided some protection is extended to him.

8. Having heard learned counsel for the petitioner at length, this Court is of the considered view that no case for grant of such indulgence is made out. The petitioner, as per the prosecution case, is accused of having violated the bodily autonomy and privacy of the complainant, subjected her to sexual assault, threatened her thereafter, and subsequently evaded the process of law. More importantly, despite the investigation having been conducted and the chargesheet having been presented, the petitioner has not submitted himself to the jurisdiction of the competent Court. In these circumstances, no discretionary protection is warranted, and

the petitioner must pursue such remedies as may be available to him before the Trial Court in accordance with law.

9. Furthermore, the investigation in the case stands concluded and, upon consideration of the material collected during such investigation, the Investigating Agency has found sufficient material to prosecute the petitioner for the offences alleged against him. Unless it is demonstrated that the investigation suffers from a fundamental illegality, is vitiated by mala fides, or is otherwise the product of a procedure contrary to law resulting in abuse of the process of Court, the mere existence of alleged deficiencies or inconsistencies in the prosecution case would not, by itself, justify quashing of the chargesheet at this stage. Such matters, insofar as they have a bearing on the merits of the accusation, are appropriately left for consideration by the Trial Court.

10. For the foregoing reasons, this Court finds no merit in the present petition warranting exercise of its jurisdiction to quash the chargesheet or the proceedings arising therefrom. The petition is, accordingly, **dismissed**. The petitioner shall be at liberty to appear before the Trial Court and avail such remedies as may be available to him in accordance with law. The Trial Court shall thereafter proceed with the matter uninfluenced by any observations made herein on the merits of the case and strictly in accordance with law.

(SANJAY PARIHAR)
JUDGE

Srinagar
22.09.2026
“Imtiyaz”