

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

Bail App No. 261/2025

Reserved on: 28th of April, 2026

Pronounced on: 13.05.2026

Uploaded on: 14.05.2026

Operative part or full Judgement: Full

Jaffer Ahmed Teli (24 Years)

S/O Mohammad Shafi Teli

Through his brother

Akash Shafi Teli (22 Years)

R/O Poru Adigam, Kokernag

Distirct Anantnag

.....Petitioner(s)

Through:

Mr. Shafqat Nazir, Advocate

Ms. Sabreena Bashir, Advocate

Vs.

1. Union Territory of J&K through

SHO Police Station, Kokernag

District Anantnag.

2. Shamim Ahmad Shah

S/O Nazir Ahmad Shah

R/O Adigam Kokernag,

District Anantnag.

... .Respondent(s)

Through:

Mr. Ilyas Nazir Laway, GA for R-1

None for R-2

CORAM:

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

JUDGEMENT

01. The petitioner has invoked the jurisdiction of this Court under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "the BNSS"), for his enlargement on bail, in a case arising out of FIR No. 121/2024 registered at Police Station Kokernag, for the commission of offences

punishable under Sections, 49, 64, 127(2) and 137(2) of the Bhartiya Nyaya Sanhita, 2023 ["BNS"] read with Section 3/4 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 ["POSCO Act"].

02. The case of the petitioner is that an FIR bearing No. 121/2024 came to be registered at Police Station Kokernag under Sections 137(2) and 49 of the BNS. In the complaint leading to the registration of the FIR, it was alleged by the complainant/respondent No.2 that his minor daughter (hereinafter referred to as "the prosecutrix"), had been kidnapped by the accused/petitioner herein, with the alleged assistance of his parents, namely, Mohammad Shafi Teli and Shamima, as well as his sibling-Khushboo Jan. It was further alleged in the complaint that the incident had taken place on 27th of July, 2024 and the complaint came to be filed on 30th of August, 2024, pursuant to which the aforesaid FIR was formally registered.
03. After registration of the FIR and pursuant to the investigation conducted in the matter, additional offences came to be incorporated into the case. The investigating agency, while proceeding with the inquiry, added certain Sections based on the evidence recorded and material collected during the course of investigation.
04. The petitioner further pleads that he and the prosecutrix were known to each other for a considerable period of time and had mutually expressed a desire to enter into matrimony, whereafter, a formal marriage proposal was accordingly conveyed by the

family of the petitioner to respondent No. 2; that initially, the respondent No. 2 opposed the said proposal on account of perceived caste differences and considerations of social status, however, due to the consistent unwillingness of the prosecutrix to marry any other person, respondent No.2 eventually relented and conveyed his consent for the said marriage; that pursuant to the acceptance of the marriage proposal, the marriage/ Nikah ceremony of the petitioner and the prosecutrix was solemnized on 20th April, 2024 at the residence of the respondent No.2, whereafter, the Nikah was conducted in the presence of the guardians of both the bride and the bridegroom, along with more than 15 witnesses who attended and observed the ceremony; that, prior to and even during the Nikah ceremony, respondent No.2 categorically declared the age of the bride/ prosecutrix to be 19 years, the dower (Meher) was fixed at Rs. 50,000/-, out of which an amount of Rs. 30,000/- was instantly transferred to the bank account of respondent No.2 and the Ruksati also took place on the same day, signifying complete acceptance of the marriage by both families.

05. The petitioner further pleads that during the Nikah ceremony, respondent No.2 expressed dissatisfaction with the quantum of dower fixed and demanded that certain immovable property in the shape of land be instantly transferred in the name of the bride. This indication was given openly during the ceremony, suggesting that respondent No.2 was not contented merely with the dower amount already agreed upon, but insisted upon an

additional transfer of property as a condition for the marriage to be fully accepted by him; that after the Ruksati, the prosecutrix/bride continued to reside at her matrimonial home until 30th of August, 2024, i.e., the date on which the FIR in question came to be registered against the petitioner and all his family members; upon registration of the FIR and subsequent arrest of the accused persons, the statement of the prosecutrix was recorded under Section 183 of the BNSS before the learned Judicial Magistrate, Vailoo, on 17th of September, 2024, however, quite strangely and with a clear intent to improve the earlier version, as subsequently revealed to have been done at the instance of the Court below, another statement under Section 183 BNSS of the prosecutrix was recorded on 15th of October, 2024, wherein, for the first time, she alleged that the present petitioner had committed rape upon her.

06. The petitioner has further asserted that during the course of investigation and prior to the filing of the charge sheet, the accused persons had moved an application seeking bail. The said application was filed on 4th of September, 2024, however, the Trial Court, rejected the bail application on the ground that the offences alleged were of a serious nature and that the investigation was still in progress. Thereafter, upon completion of investigation, charge sheet came to be filed on 25th of November, 2024 before the Court of learned Principal Sessions Judge, Anantnag; that, out of the 17 cited witnesses, the statements of only 06 witnesses came to be recorded and each of

these witnesses has, in essence, retracted or disassociated from the allegations attributed to the petitioner.

07. It is further pleaded in the Petition that, during the pendency of the trial, the accused No. 2 and 3, viz., the parents of the present petitioner, filed an application seeking bail, which was allowed by the Trial Court vide order dated 12th of August, 2025, on the ground that the investigation in the case had already been completed, the statement of the prosecutrix had been recorded and no statutory bar existed to deny them the concession of bail; that, after grant of bail to accused No. 2 and 3, the present petitioner submitted an application for grant of bail on 26th of September, 2025 before the Trial Court, which application was, however, opposed by the prosecution.; that, despite completion of investigation and the circumstances favouring release of the petitioner, the Trial Court, vide order dated 11th of November, 2025, dismissed the bail application of the petitioner, by observing that considering the gravity of the alleged offence, the severity of the punishment prescribed and the stage of trial, it would not be appropriate to enlarge the petitioner on bail at that juncture.
08. Faced with the above situation, the petitioner has come up with the present application seeking grant of bail in his favour, primarily, on the ground that it stands prima facie established that the FIR in question is frivolous, motivated and an offshoot of the underlying property and caste dispute between the parties; that the allegations levelled against the petitioner are wholly

unfounded, concocted and driven by vengeance and retribution, therefore, the continued incarceration of the petitioner would serve no purpose other than to cause undue hardship to the petitioner.

09. The respondents have filed their objections, inter alia, stating therein that on 30th of August, 2024, the Police Station concerned received a complaint from one Shameem Ahmad Shah S/O Nazir Ahmad Shah R/O Adigam to the effect that on 27th August, 2024, his minor daughter (prosecutrix) had gone to her school and did not return; that he searched for her minor daughter and during search it was found that the accused person, namely, Jafar Ahmad Teeli S/O Mohd. Shafi Teeli R/O Adigam had kidnapped her daughter with the help of his family members, namely, Mohd Shafi Teeli S/O Lassi Mohd. Teeli, Mst. Shamshada W/O Mohd. Shafi Teeli and Khushboo Jan D/O Mohd. Shafi Teeli, Residents of Adigam; that, on receipt of the above information, case FIR No 121/2024 u/s 137(2), 49 BNS was registered in the concerned Police Station and investigation taken up; that, during investigation, the Investigating Officer visited the scene of occurrence, drafted the site plan and recorded the statements of witnesses; that, during search, the abductee was recovered from the residential house of the accused persons and it became crystal clear that the accused-Jafar Ahmad Teeli (petitioner herein) had abducted the complainant's minor daughter with the help of his family members and confined her at his home and all the accused persons were arrested.

10. The respondents have further stated that the medical inspection of the abductee was conducted and it was found that the abductee was six weeks pregnant, whereafter, necessary approval was taken from the Child Welfare Committee, Anantnag and the foetus was aborted, besides taking the DNA sample; that the DNA sample of the accused-Jafar Ahmad Teeli (petitioner herein) was also taken and both the samples were sent to FSL, Srinagar for examination and necessary forensic opinion, which was obtained wherein it was found that the DNA samples of the accused person-Jafar Ahmad Teeli (petitioner herein) and the aborted foetus matched with each other. Accordingly, the relevant Section under the POCSO Act was added into the case; that the statement of the abductee u/s 183 BNSS was recorded before the Court, wherein the abductee deposed that the accused person-Jafar Ahmad Teeli (petitioner) abducted her with the help of his family members; that, thereafter, DOB certificate of the abductee was also taken from the concerned school and, as per same, the abductee was found to be a minor; that the accused-Khushboo Jan, who was found to be a minor, was granted interim bail by the Juvenile Justice Board (JJB) Anantnag, which was later made absolute by the JJB, Anantnag; that the challan of the case was laid before the Principal Sessions Court at Anantnag on 25th of November, 2024.
11. Learned counsel for the petitioner, in line with the grounds taken in the bail application, submits that the petitioner and the alleged victim had married at the complainant's home on 20.08.2024. At

that time, the victim was projected by her father (the complainant) to be of the age of majority. However, just ten days after their marriage, the complainant lodged an FIR at the local Police Station on 30.08.2024, accusing the petitioner of abducting his minor daughter from her school on 27.08.2024; that the initial statement of the prosecutrix, recorded before the Magistrate, did not allege the commission of any offence and stated then that the accused had taken her to his house after telling her that her father was there. However, in the subsequent statement recorded on 15.10.2024 before the Magistrate at Dooru, the petitioner was implicated, as the victim stated she had been abducted and raped fourteen times.

12. It is further argued that after the investigation, a charge sheet was filed, and during the trial, most of the material witnesses have been examined. PW-12, Abdul Rashid Teli, testified that the marriage took place at the complainant's house and suggested the case was filed due to a misunderstanding over the payment of *Mehar*. PW-16, Muzammil Ahmad Shah (*Nikah khawn*), testified that he performed the *Nikah* at the complainant's house, where Dower of Rs. 50,000/- was paid via cheque, and that the marriage took place, with the consent of both the parties. The prosecution did not declare these witnesses hostile to cross examine them, despite having been resiled from their earlier depositions.
13. It is further argued that if the petitioner is now shown to be 15 years old, it would, at most, constitute an offence of child marriage for which the complainant himself should be

prosecuted. Furthermore, the petitioner's parents, who are co-accused for abetting the offences, were admitted to bail on 12.08.2025, and there are no allegations of them misusing the concession of bail. Consequently, it is prayed that the petitioner also be admitted to bail, having been in custody for the last eighteen months.

14. The learned counsel for the respondents ex adverso, opposed the bail on the grounds that the petitioner has been charge-sheeted for very serious offences even attracting life imprisonment; that the prosecutrix became pregnant as a result of the rape. Following an abortion, the foetus was subjected to DNA testing, which matched that of the petitioner. He is charged with wrongfully confining a fifteen-year-old child and subjecting her to penetrative sexual assault, punishable with upto twenty years extendable to life imprisonment and fine. As reported, out of a total of seventeen witnesses, eleven witnesses have already been examined, and only six witnesses are left to be examined. All the material witnesses are stated to have examined, except for the formal witnesses to the documents, the medical expert and the Investigating Officer. Given to this fact, it can be stated that the trial is nearing completion. It has been submitted that considering the gravity of the offences, bail is rejected at this stage.
15. Heard learned counsel for the parties, perused the material on file and considered.
16. The petitioner is accused of offences punishable under Sections 64, 127(2), and 137(2) of the Bharatiya Nyaya Sanhita (BNS)

and Sections 3/4 of the POCSO Act. Section 64 (Rape) carries punishment of at least ten years or life imprisonment. Section 127(2) (Wrongful Confinement) is punishable by one year of imprisonment or fine. Section 137(2) (Kidnapping) carries up to seven years and a fine. Finally, Section 3/4 of the POCSO Act (Penetrative Sexual Assault) carries a minimum of twenty years, extending to life imprisonment, when committed against a child below 16 years of age. Admittedly, as per school records, the prosecutrix was 15 years old at the time of the alleged offence.

17. The learned counsel for the petitioner has raised factual aspects that may be considered by the Trial Court. However, for the purpose of consideration of bail at this stage, there exists a statutory presumption of the commission of offences under Section 29 of the POCSO Act against the accused. While this presumption is rebuttable through evidence during the trial, in the opinion of this Court such rebuttal is not applicable at the bail stage.
18. Since most of the material prosecution witnesses have already been examined and only the Doctor and IO remain, the trial is nearly concluded. Therefore, it would not be in the interest of justice to grant bail at this stage. Instead, the petitioner may await the final outcome of the criminal case pending before the Trial Court.
19. In the light of the gravity of the accusations, the age of the prosecutrix as per the school record, and the incriminating nature of the DNA evidence linking the petitioner to the terminated

pregnancy, this Court finds no merit in the present application at this juncture. The statutory presumption under Section 29 of the POCSO Act weighs heavily against the accused, and the factual defenses raised regarding the validity of the marriage and the payment of *Mehar* are matters to be conclusively determined by the Trial Court upon appreciation of the final evidence. Given that the trial is at its fag end, with only the official witnesses remaining to be examined, enlarging the petitioner on bail now could potentially influence the concluding proceedings.

20. Viewed thus, the bail application is **dismissed**. However, the Trial Court is directed to expedite the examination of the remaining witnesses and conclude the trial, expeditiously.

(M. A. CHOWDHARY)
JUDGE

SRINAGAR

13.05.2026

Manzoor

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No.