

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

BA No. 49/2018 c/w
OW 104 No. 38/2018
CRMC No. 135/2018

Varun Chandan and ors
Kajal Sawhney
Varun Chandan and ors

..... Petitioner (s)

Through :- Mr.P.N.Raina Sr. Advocate with
Mr. J. Hamal Advocate.

V/s

State and ors
Bal Krishan and ors
State and ors

.....Respondent(s)

Through :-

Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

ORDER

BA No. 49/2018

1 Objections on behalf of respondent No.3 have been filed.
However, no response/objections have been filed by the official respondents.

2 This bail application came up for consideration by this Court way
back on 23.04.2018, when this Court, while issuing notice to the respondents
for filing objections, granted interim bail to the petitioners, subject to their
furnishing personal bonds and surety bonds of Rs. 30,000/- each to the
satisfaction of the Investigating Officer. Ever since, the petitioners are on bail
and there is nothing brought before this Court to demonstrate that the
petitioners have violated any of the terms and conditions of the bail. It is
submitted by learned Senior Counsel appearing for the petitioners that the FIR,

after investigation, has been challaned in the competent Court of law, where the petitioners are facing trial.

3 In view of the above, order dated 23.04.2018 granting interim bail to the petitioners is made absolute. Application stands disposed of, accordingly.

OW 104 No. 38/2018

4 The petitioner, through the medium of present application filed under Section 561-A of the CrPC, has prayed for directions to the Special Mobile Magistrate (Sub-Judge), Rajouri not to enter and decide the bail applications of respondents No.1 to 3, which are in the nature of anticipatory bail. The petitioner also seeks quashing of the order entertaining the said bail applications on the ground of lack of jurisdiction.

5 Mr. Raina, learned Senior Counsel appearing for the respondents, submits that there is no dispute with regard to the proposition that a Judicial Magistrate 1st Class is not competent to grant bail in anticipation of arrest and can only grant bail in appropriate cases where the accused is either in custody or surrenders before the Court.

6 In view of the aforesaid submissions made by the learned Senior Counsel appearing for the respondents, this petition is allowed and the proceedings, if any, still pending before the Court of Special Mobile Magistrate 1st Class (Sub Judge) Rajouri entertaining the bail applications are quashed.

CRMC No. 135/2018

7 Learned Senior Counsel appearing for the petitioners fairly submits that since the FIR, after investigation, has already been challaned in

the competent Court of law and has been separately challenged by the petitioners, he has instructions not to press this petition.

8 In view of the above, this petition is dismissed as not pressed.

(SANJEEV KUMAR)
JUDGE

Jammu
06.12.2024
Sanjeev

